



# **Board of Governors Meeting**

## **Public Session Supplemental Materials**

**November 15-16, 2017  
WSBA Conference Center  
Seattle, Washington**

**BOARD OF GOVERNORS' MEETING**  
**Public Session Supplemental Materials**  
**November 15-16, 2017**  
**Seattle, WA**

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## HALLMARKS

### Washington State Alliance for Equal Justice (adopted March 28, 2014)

#### I. The Alliance for Equal Justice

We are lawyers, judges, legal workers, volunteers and community leaders committed to the fair, effective, and inclusive administration of civil justice in Washington State. In partnership with clients and communities of low-income and vulnerable people, we work to expand meaningful access to the civil justice system and to identify and eliminate barriers that deny justice and perpetuate poverty.

#### II. Our Vision

Poverty will not be an impediment to justice. Legal barriers that perpetuate poverty and inequality will be dismantled. Laws and legal systems will be open and equally effective for all who need their protection, especially those who experience unfair and disproportionately unjust treatment due to personal or community characteristics that place them on the margins of society.

#### III. Our Common Values and Commitments

**Inherent Right to Justice.** Justice and meaningful access to the civil justice system are inherent rights of all persons. We will work individually and collectively to ensure that the civil justice system is open, accessible, and available to protect and promote the rights of low-income, marginalized and vulnerable people to secure justice under the law.

**Access to Our Services.** Our statewide civil legal aid system will be equitably available to all who need our services, regardless of legal status or other defining characteristics. We will affirmatively reach out to those who experience obstacles to securing our help, and will adapt our delivery systems to meet their needs.

**Full Range of Legal Services.** We will use all legal tools at our disposal to secure just and lasting results for the low-income and marginalized individuals, families, and communities we serve.

**Duty to Identify and Eliminate Barriers.** We will use our legal skills to identify and eliminate systems—within our own community, the justice system, and greater society—that operate to deny justice to low-income members of racial, national, ethnic and social minorities and other low-income persons who experience barriers

due to explicit or implicit bias and other marginalizing dynamics. We appreciate the cultural, language and other differences among our clients, client communities and ourselves. We will take affirmative steps to develop and implement personal and organizational competencies and systems to bridge these differences without placing additional undue burdens on our clients.

**Duty to Identify and Serve the Most Vulnerable.** We will focus our limited resources on meeting the civil justice needs of those who are most vulnerable and/or in need.

**Meaningful and Authentic Client Engagement.** Meaningful and authentic engagement with the communities and clients we serve is essential to our work. We will learn and take direction from our clients. Where necessary, we will serve as their legal voice. Where possible, we will help and support them in speaking for and asserting/defending their own legal rights.

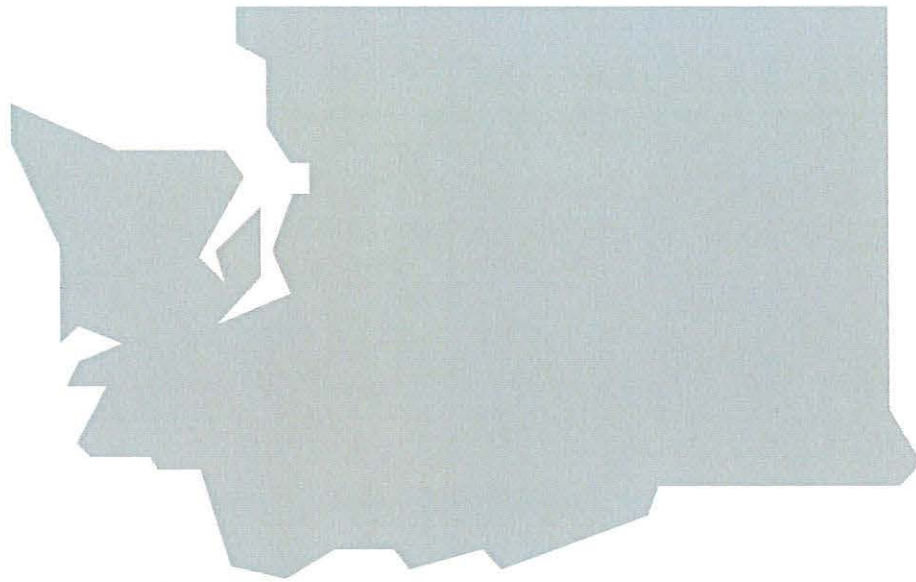
**Transparency and Accountability.** We will be transparent and accountable to our clients, the broader communities we serve, our Alliance for Equal Justice peers and partners and those who invest in our work.

**Effective Use of Limited Resources.** We will coordinate our efforts to maximize the impact of the limited resources entrusted to us, and to deliver the most effective and economical civil legal aid services, consistent with our common mission and core values.

**Building Relationships and Partnerships.** We will build relationships with others, including legal- and community-based organizations that work with our clients, to increase the reach and effectiveness of our work.

**Continuous Leadership Development.** We will continuously support members of our community in assuming leadership in their work with clients and client communities, in pursuing necessary change in the civil justice system, and in furthering the work of the Alliance for Equal Justice.

**PLAN  
FOR THE DELIVERY OF CIVIL LEGAL AID  
TO LOW INCOME PEOPLE IN WASHINGTON  
STATE  
(REVISED 2006)**



**Adopted by the Access to Justice Board  
May 8, 2006**





## EXECUTIVE SUMMARY

### Plan for the Delivery of Civil Legal Aid to Low Income People in Washington State (Revised 2006)

The Washington State Access to Justice Board adopted its revised State Plan on May 8, 2006. The revision was developed following the review of the findings in the Civil Legal Needs Study, conclusions from the Supreme Court's Task Force on Civil Equal Justice Funding and Quantitative Report; the 2000 Census; the Legal Services Corporation's 2003 evaluation of the ATJ Board's 1999 State Plan; recommendations from the Access to Justice Conferences; and interactive GIS (Geographic Information Systems) maps of significant demographic and resource data. Many members and supporters of the Alliance for Equal Justice participated in the state plan review process and contributed comments to the various drafts.

#### Goals of the revised State Plan:

- A. Establish minimum thresholds for client service delivery
- B. Substantially expand access to necessary legal aid services for all low income people
- C. Provide an ongoing infrastructure for effective support and accountability
- D. Provide a blueprint for future budget requests and resource allocation decision making

#### Areas of Planning Focus:

- A. Upgrading Rural Delivery. There is insufficient legal aid presence in rural parts of the state. The Plan does the following:
  - Creates 19 regional service areas of not less than 12,000 low income people each (see map on page 2)
  - Establishes a range of legal aid services that must be available to clients within each region
  - Requires that not less than 3.0 legal aid FTE (full time equivalent) attorneys serve each region, with at least 2.0 FTE's resident within the region
  - Directs regional providers to prioritize and coordinate their client service delivery efforts
- B. Strengthening Pro Bono. There are a number of small pro bono programs in areas of the state with insufficient numbers of private attorneys available to provide meaningful and reliable client services. The Plan does the following:
  - Structurally integrates the pro bono function into the regional delivery infrastructure where there is an insufficient number of private attorneys to reliably contribute 1 FTE (1500 hours per year) of legal aid services
  - Upgrades the statewide capacity to provide training, technical assistance and other support for pro bono providers
- C. Centralizing Client Intake and Access in King County. The Plan directs King County programs to develop a plan to centralize intake, access and referral services, much the same way as CLEAR has done for clients living in the other 38 counties.
- D. Expanding Client Access for all Low Income People. The Plan directs that new and innovative efforts be undertaken to address obstacles that limit access to CLEAR and the legal aid system due to cultural, linguistic, status-based, ability-related or other challenges.
- E. Strengthening Statewide Support Functions. The Plan identifies and assigns responsibility for the following key functions: State Planning and Implementation; Evaluation and Accountability; Advocacy Coordination, Resource Development; Professional Development and Training; Pro Bono Support; Technology; Building Support for Equal Justice

#### Implementation and Oversight:

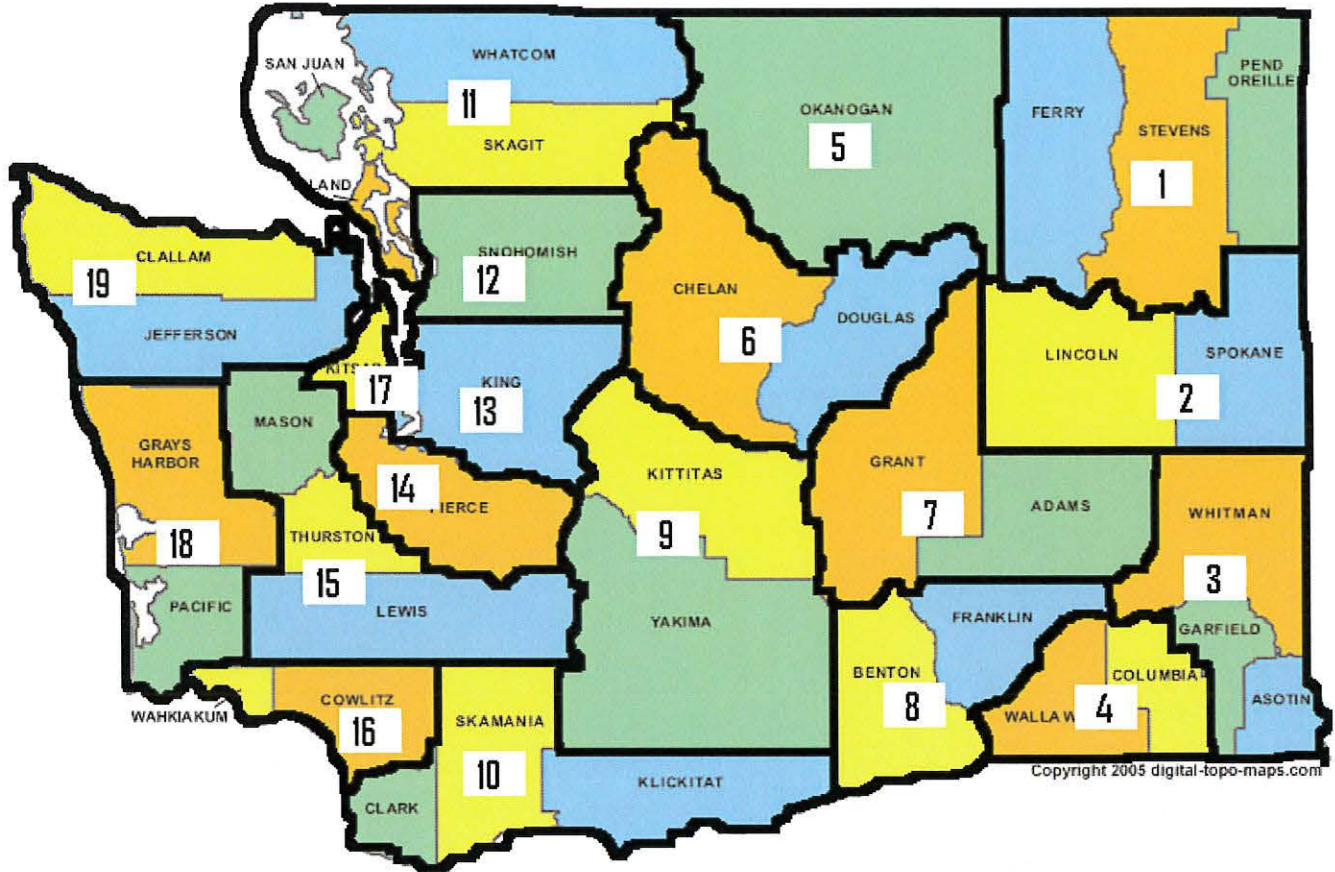
Immediately: ATJ Board will establish a State Plan Oversight Committee

December 31, 2006: King County proposal for centralized intake system; each region will complete an assessment of planning needs; entities responsible for statewide support will submit plans

June 30, 2007: Completion of 19 regional plans

June 30, 2010: Implementation of the State Plan

# WASHINGTON STATE CIVIL LEGAL AID DELIVERY REGIONS





# PLAN FOR THE DELIVERY OF CIVIL LEGAL AID TO LOW INCOME PEOPLE IN WASHINGTON STATE (Revised 2006)

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## **PREFACE**

### **i. Brief History of State Planning in Washington**

This is the second revision to the Plan for the Delivery of Civil Legal Aid to Low Income People in Washington State (State Plan). The Access to Justice Board (ATJ Board) created the first State Plan in 1995, at the request of the federal Legal Services Corporation (LSC), to address Congressional limitations placed on legal aid services that could be provided with federal funds. That State Plan reconfigured the delivery system to ensure that no one would be written out of the justice system.

In 1999 the ATJ Board revised its State Plan, again at the request of the LSC. The 1999 revision set delivery goals and delineated responsibilities, including responsibilities for statewide support of the delivery system.<sup>1</sup>

In 2003, this state served as an LSC pilot site for evaluating state plans and state justice communities. The ATJ Board incorporated feedback from that process into this State Plan revision.

### **ii. Overview of the Current State Plan Review Process<sup>2</sup>**

The ATJ Board established the State Plan Review Committee (Committee) in 2003 to revise the 1999 State Plan. A six-person Steering Committee<sup>3</sup> developed a workgroup structure, appointed co-chairs, and assisted the co-chairs in identifying workgroup members who reflect the programmatic and geographic diversity within the Washington State Alliance for Equal Justice (see Section I.C. for a description of the Alliance). A complete list of State Plan Review Committee members and participants is attached.<sup>4</sup>

A key goal for the Committee was to build a template for future state planning that would avoid “reinventing the wheel” with each subsequent plan update. The Committee determined that mapping technology software could serve current and future planning needs and also provide the technology for the collecting, tracking, evaluating and analyzing of data on client service delivery.

The Client Mapping Workgroup identified key demographic information about low income people in Washington State. The Resource Mapping Workgroup identified key legal resources for low income people, which includes members of the private bar. Utilizing geographic information software (GIS), the client and resource information was compiled into a database to be used on a map server and website.<sup>5</sup> Technical mapping assistance was provided by CommEn Space, a not-for-profit mapping service, with funding support from the Supreme Court. The interactive maps are available for public viewing at: <http://mapserver.commenspace.org/wsba/atj-internal.php> (User: atj Password: justice).

The Structure Workgroup utilized the client and resource data, and other information, to make specific recommendations to address gaps in the delivery system. The Workgroup also considered feedback from a pro bono program focus group facilitated

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<sup>1</sup> The 1995 and 1999 State Plans can be found at <http://www.wsba.org/atj/publications/default.htm#stateplanning>.

<sup>2</sup> Complete reports from the Client and Resource Mapping, Structure and State Support Workgroups can be found at <http://www.wsba.org/atj/committees/sprc.htm>.

<sup>3</sup> Christine Crowell, Chair, Access to Justice Board; Tom Tremaine, Northwest Justice Project (Spokane); Laurie Davenport, Tacoma-Pierce County Volunteer Legal Services Program; Mary Welch, Northwest Justice Project (Bellingham); John Tirpak, Unemployment Law Project (Seattle); Joan Fairbanks, Access to Justice Board and Washington State Bar Association

<sup>4</sup> Appendix D

<sup>5</sup> See Appendix F for a list of demographic and resource categories mapped.



by Steve Scudder, Counsel to the American Bar Association Standing Committee on Pro Bono and Public Service.

The State Support Workgroup identified the resources and infrastructure necessary to effectively provide relevant civil legal aid services to low income and vulnerable people in Washington State.

The Steering Committee synthesized these reports and developed a proposed revised State Plan. The Committee sent the State Plan out for comment on February 10, 2006. The ATJ Leadership Group discussed the first draft for several hours on February 17, 2006. The Committee incorporated many of the comments from the Leadership Group and sent out a revised draft on April 7, 2006. The Committee considered numerous additional comments and provided a final proposed revised State Plan to the ATJ Board. The ATJ Board considered comments and adopted this revised State Plan on May 8, 2006 at its annual retreat.

### **iii. Areas of Current Planning Focus**

After reviewing what was working well in delivering legal aid services, the Committee identified six key areas of client service delivery that required attention:

1. improving rural client service delivery;
2. strengthening pro bono service delivery;
3. centralized intake and client access in King County;
4. improving access to civil legal aid for all low income people; and
5. strengthening statewide support functions.

These planning areas were identified following review of the findings in the Civil Legal Needs Study;<sup>6</sup> Conclusions from the Supreme Court's Task Force on Civil Equal Justice Funding and Quantitative Report;<sup>7</sup> the 2000 Census; the Legal Services Corporation's 2003 evaluation of the 1999 State Plan;<sup>8</sup> recommendations from the Access to Justice Conferences;<sup>9</sup> Pro Bono Subcommittee Report;<sup>10</sup> and interactive maps with the client and resource data.<sup>11</sup> The Committee also reviewed and considered structural changes which have occurred since the 1999 State Plan.<sup>12</sup>

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6 <http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf>

7 [http://www.courts.wa.gov/newsinfo/content/taskforce/task\\_force\\_report\\_final\\_draft.doc](http://www.courts.wa.gov/newsinfo/content/taskforce/task_force_report_final_draft.doc);

[http://www.courts.wa.gov/newsinfo/content/taskforce/Final\\_Quantitative\\_WG\\_Report.doc](http://www.courts.wa.gov/newsinfo/content/taskforce/Final_Quantitative_WG_Report.doc)

8 <http://www.wsba.org/atj/committees/sprc.htm>

9 <http://www.wsba.org/atj/committees/sprc.htm>

10 <http://www.wsba.org/atj/committees/sprc.htm>

11 <http://mapserver.commenspace.org/wsba/atj-internal.php> (User: atj Password: justice).

12 Appendix C

**PLAN FOR THE DELIVERY OF CIVIL LEGAL AID TO LOW INCOME PEOPLE IN  
WASHINGTON STATE**

**I. INTRODUCTION**

**A. Mission and Purpose**

Equal justice under law is a fundamental right. The civil legal aid delivery system exists to deliver on that principle. Continual statewide planning is necessary to ensure that the civil legal aid delivery system effectively responds to the civil legal needs of its clients. Shifts in demographics and location of low income people, their legal needs, and availability of funding and other resources, are important considerations in that planning process.

**B. Values and Standards**

The Hallmarks of an Effective Statewide Civil Legal Services System (Hallmarks)<sup>13</sup> adopted in 1995 and revised in 2004, describe the mission, values, components and capacities upon which the current statewide civil legal aid delivery system is based:

1. *The system's effectiveness is dependent upon its commitment to assessing and responding to the most critical needs of clients as identified by low income clients and potential clients.*
2. *Those in poverty have an equal right to justice regardless of who they are, where they live, or the language they speak.*
3. *The justice system must be barrier free.*
4. *A legal services delivery system is effective only to the degree that positive results are achieved for clients, particularly in areas of high client need.*
5. *The right to justice must remain constant regardless of changing social, political, economic or other conditions in the country, state and communities where low income people live.*
6. *Resources must first be committed to those efforts and activities that are most likely to result in longest term benefits in areas of the most pressing client needs.*
7. *Individual and group advocacy are both effective and necessary tools for addressing the legal interests of low income residents throughout the state.*
8. *The most effective resolution of a "legal" problem may require the use of non-legal resources.*
9. *Low income people have a greater ability to control their own lives when they have accurate information and the skill, ability and opportunity to use that information to advocate on their own behalf.*
10. *Access to justice means access to and assistance in the places where decisions are made that affect people's lives including courts and legislative and administrative bodies.*
11. *Recruitment, coordination and thoughtful use of the components of a legal aid delivery system are essential to the system's success.*
12. *An outstanding delivery system consciously strives to avoid duplication of capacities and administration.*

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<sup>13</sup> Appendix A



13. *The system must embrace and reflect appropriate professional ethical and performance standards in every respect of its practice.*
14. *While taking into consideration the needs of the clients statewide, the system should identify and respond to unique issues and special needs of clients within individual regions, communities and Indian nations.*
15. *The system must be organized and operated to insure that accurate and complete information about what the system does and how it does is available to all.*

The Hallmarks and the Principles for State Planning<sup>14</sup> have guided the Access to Justice Board's State Plan Review Committee (Committee) in its review and revision of the State Plan.

The State Plan demands accountability and embraces the highest professional standards, including the Access to Justice Board's Civil Equal Justice Performance Standards,<sup>15</sup> Washington Rules of Professional Conduct,<sup>16</sup> the American Bar Association's (ABA) Standards for Providers of Civil Legal Services to the Poor,<sup>17</sup> and the ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means.<sup>18</sup>

### **C. Washington State Alliance for Equal Justice<sup>19</sup>**

Civil legal aid in Washington State is delivered by the Alliance for Equal Justice (Alliance), a network of organizations providing civil legal aid for low-income and vulnerable people. The Alliance includes Members (organizations providing civil legal services to low-income clients) and Supporters (organizations providing funding, policy development and oversight). Included in the Alliance are:

#### **1. Alliance Members: Organizations Providing Legal Aid**

- a. Statewide General Practice Legal Aid Program (Northwest Justice Project/CLEAR (NJP)): NJP provides a broad range of regionally based civil legal services for low income people, and a statewide (except King County) toll free telephone intake, advice, brief legal services, and, referral for further representation, and written self-help materials.
- b. Columbia Legal Services: Columbia Legal Services (CLS) is a statewide legal aid program focusing its representation on clients and client communities who need recourse to the civil justice system but cannot be represented with funding provided to other legal aid providers. CLS's main purposes in the Alliance are to make sure that all forms of representation are available to clients, including class actions; that clients are able to meaningfully participate in proceedings affecting their legal rights in local, state and federal legislative and administrative regulatory bodies; and that no population or group of low income people is denied access to the civil justice system.

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14 Appendix B

15 <http://www.wsba.org/atj/committees/sprc.htm>

16 [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=ga&set=RPC](http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC)

17 <http://www.abanet.org/legalservices/downloads/sclaid/civilstandards.pdf>

18 <http://www.abanet.org/legalservices/probono/standards.html>

19 See Appendix E for a more detailed description of respective roles of Alliance Members and Supporters.

- c. Specialty Legal Aid Providers (Northwest Immigrant Rights Project (NWIRP), TeamChild, Unemployment Law Project, Legal Action Center, Fremont Public Association, University Legal Assistance and Northwest Health Law Advocates): These programs employ staff attorneys to provide representation to low income clients in discrete legal specialties, including immigration, employment law, children's issues and domestic violence.
- d. Pro Bono (Volunteer Attorney) Programs (see Appendix E for listing): These programs recruit and support volunteer attorneys to provide a broad spectrum of services (direct representation, brief services, advice, pro se assistance and community education) in many areas of civil law. Pro bono programs are able to assist clients not eligible for LSC or state funded services.

## 2. Alliance Supporters

- a. Policy Development and Oversight Organizations: Washington State Supreme Court, Access to Justice (ATJ) Board and Washington State Bar Association (WSBA)
- b. Funding Organizations: federal Legal Services Corporation (LSC), State of Washington Office of Civil Legal Aid (OCLA) and Legal Foundation of Washington (LFW)

## II. OVERVIEW OF THE CURRENT DELIVERY SYSTEM

Washington's civil legal aid delivery system is complex and includes numerous organizations and entities, each of which is governed by myriad rules and regulations and all of which work together to deliver high quality, efficient and effective legal aid services in response to the full spectrum of client needs. In order to achieve maximum efficiency, ensure the most strategic use of all resources, and to limit the potential for unnecessary duplication of functions in a limited resource environment, it is necessary that all components of the system operate in accordance with a common set of objectives and expectations. Recognizing the complexity of the system and the need for effective planning and oversight, the Supreme Court directed the Access to Justice Board to "establish, coordinate and oversee a statewide, integrated, non-duplicative, civil legal services delivery system that is responsive to the needs of poor, vulnerable and moderate means individuals."<sup>20</sup>

Since 1995, the Access to Justice Board has overseen civil legal aid delivery planning. The objective of the Board's planning effort has been to ensure the most effective and efficient investment of scarce resources to the end that all low income people who experience civil legal needs have equitable access to the type and quality of legal aid services that they need. From the outset, the ATJ Board's State Plans have been grounded in a unifying set of core values and delivery expectations. These are embodied in the ATJ Board's Statement of Principles and Goals<sup>21</sup> and the Hallmarks listed above.

The current statewide infrastructure reflects the gains made during the past planning processes and changes that have been made in response to circumstances that have arisen in between planning cycles. Gains that have been achieved over the past decade include, but are not limited to:

<sup>20</sup> Supreme Court Order Reauthorizing the Access to Justice Board (Nov. 2, 2000), <http://www.wsba.org/atj/board/2000order.htm>

<sup>21</sup> <http://www.wsba.org/atj/board/statementpringgoals.htm>



- initial establishment of the Northwest Justice Project and the evolution of NJP into a mature, robust general practice, statewide provider of civil legal aid services;
- development, expansion and continued improvement of the statewide CLEAR (Coordinated Legal Education, Advice and Referral) system as a principal gateway for clients throughout the state;
- unification in 1996 of the three then-existing legal aid programs into a single statewide staffed legal aid provider (Columbia Legal Services) that has developed and maintained statewide institutional capacity to provide a full range of client services to certain categories of low income people, on certain types of legal matters, in certain forums and using certain legal advocacy strategies that cannot be underwritten with state or federal funding;
- reallocation in 2004 of the roles, responsibilities and resources available to the staffed legal aid programs as dictated by the needs of clients and external circumstances;
- investment in dedicated staff to provide support and technical assistance to pro bono programs;
- adoption of statewide private resource development and communications plans that define and tie the network together into a unified Alliance for Equal Justice;
- establishment of a statewide Leadership Group as a permanent forum for addressing issues of common concern to the Alliance for Equal Justice;
- expansion of training opportunities to include and benefit the full array of civil legal aid providers who make up the Alliance; and
- establishment of the Equal Justice Coalition and the corresponding expansion of bipartisan support for federal and state appropriated legal aid funding.

Many of the changes implemented and gains achieved over the course of the past 11 years resulted in significant personal and organizational consequences. Many were laid off; programs were closed; new programs were created; individual and organizational responsibilities and accountability relationships were reassigned; new leaders were developed while a number of leaders moved on to other positions in the Alliance or left the Alliance altogether. Throughout this period, every effort and every initiative was driven by a single purpose: to ensure that the right types of civil legal aid services are available in the right locations for the clients who need them most.

Today Washington State's legal aid delivery system is strong and resilient. It provides high quality, reliable and responsive legal aid services to thousands of low income people each year. The core programs have achieved a level of stability and sustainability never before experienced. CLEAR has matured and continues achieve ever greater efficiency and responsiveness despite overwhelming client demand. The Hallmarks have been institutionalized not only throughout the Alliance, but throughout the greater justice system. The Constitutionality of the IOLTA mechanism was successfully defended, and the judicial branch has assumed responsibility for administering state civil legal aid funding through the new Office of Civil Legal Aid.

Funding for the Alliance has grown and diversified. Funding originates from a number of sources — the federal Legal Services Corporation, the state Office of Civil Legal Aid, the Legal Foundation of Washington (IOLTA, class action residuals), the Campaign for Equal Justice, local bar associations and foundations, and a host of smaller grants, contracts, and local contributions. Funding underwrites the capacity of Alliance members to achieve the objectives of the State Plan and address the needs chronicled in the Civil Legal Needs Study.

Over the course of the last decade, the Alliance has developed an effective system to invest the different types of funding available to the Alliance in service of the

objectives set forth in the Hallmarks. Two of the three principal sources (LSC and OCLA) carry significant limitations that directly affect the structure and the degree to which Alliance members can work together to meet the full spectrum of legal needs of clients. The rules governing these funds are established by Congress and the state Legislature respectively and include restrictions that prohibit their use for important client service activities contemplated in the State Plan. Consistent with the service delivery expectations set forth in the State Plan, funds not so limited are used to underwrite these important client service activities.

Despite the strengths of the existing system, there are weaknesses as well. This revision to the State Plan identifies and addresses some of these weaknesses and sets out a course that will help us build the infrastructure and systems necessary to address the critical civil legal needs of clients identified in the Civil Legal Needs Study, obtain the resources that the Supreme Court's Task Force on Civil Equal Justice Funding determined were necessary to address those needs, and deliver client services with the highest degree of effectiveness and accountability.

### **III. PLANNING OBJECTIVES**

This revision to the State Plan is intended to:

- serve as a blueprint for and guide the acquisition and investment of scarce civil legal aid resources;
- ensure that appropriate civil legal aid services are equitably available to all who need them regardless of where they reside, barriers they may experience or the nature of their legal problem;
- establish minimum thresholds for client service delivery throughout the state;
- provide a framework for substantial expansion of access to necessary legal aid services for all low income people throughout the state;
- establish common service delivery and accountability goals, objectives and benchmarks; and
- ensure that there is necessary infrastructure to support the needs all programs involved in client service delivery at the local, regional and statewide levels.

### **IV. REVISIONS TO STATE PLAN**

#### **A. Overview**

Based on a review of demographic and mapping data regarding client, community, private attorney, legal aid provider and other relevant service numbers, locations, relationships and activity, this State Plan establishes the blueprint for addressing gaps in the delivery system's current ability to achieve the Hallmarks. Specifically, the Plan focuses on:

- **Rural Client Service Delivery:** Delivery of legal aid services in many rural areas needs to be enhanced to provide equal access to rural residents. To accomplish this, Washington will be organized into 19 client service regions, based on a range of relevant social, demographic, economic, transportation and client service delivery considerations. No region will be established with less than 12,000 low income people, including persons not included in the census numbers (e.g., undocumented migrant and seasonal workers, residents of correctional and long term care institutions, and youth under 15 not living with a relative).
- **Local and Regional Planning:** With the assistance of ATJ Board staff, legal aid providers in each region will identify client legal needs, establish commonly agreed upon case service priorities and develop plans to maximize the efficient



and effective delivery of civil legal aid services consistent with the expectations outlined in the Hallmarks. In the near term, plans will focus on achieving equitable access to the full range of necessary legal aid services (outlined in the next section) for clients and client communities throughout their regions *within the mix of resources available to them*.

- **Achieving Minimum Presence:** A 3.0 FTE benchmark is established for achieving a minimum level of civil legal aid “presence” in any region. Though this minimum presence will not be achieved in some regions within the existing resource mix, it still must be seen as a minimum for adequate presence in the long run. At the 3.0 FTE benchmark, not more than 1 FTE advocate should provide intake, advice, referral and other brief or limited services through local and/or remote means, and at least 2 FTE advocates (however configured) should be present within the region *and* be able to provide full representation to clients on high priority cases. Regions will have substantial flexibility in mixing and matching client service delivery components to achieve this benchmark.
- **Moving Toward Geographic Equity:** As new resources become available they will be targeted to achieving the minimum level of client service presence in all regions consistent with the Hallmarks. Once minimum presence is achieved, additional resources will be invested to overcome regional client service inequities and proportionately expand legal aid presence in all areas of the state, consistent with relevant client demographic information, updated client service resource analyses and the findings of the Civil Legal Needs Study (as they may be updated over time).
- **Strengthening and Supporting Pro Bono:** The Alliance, funders and state support entities will work to strengthen and professionalize the pro bono component of the delivery system in those areas where significant and sustainable pro bono contributions are likely to be made. In areas where significant and sustainable pro bono contributions are not likely to be realized at or near levels equivalent to 1 attorney FTE, regions will be expected to develop alternative approaches to pro bono administration, recruitment and support. The Alliance will assist in designing and implementing the best configurations for delivery of pro bono services. Pro bono statewide support will be expanded to at least 1.0 FTE and made permanent.
- **Centralizing Client Intake and Referral in King County:** King County legal aid providers will study and propose by December 2006 a plan for implementing a centralized referral or intake system for low income residents of the only county without current access to such services.
- **Ensuring Equitable Access for All Clients and Client Communities:** Efforts will be undertaken to explore the value of developing effective intake and access systems for persons throughout the state who, because of their status, are ineligible for services from CLEAR. In addition, client access to all legal aid services will be strengthened by developing alternative access points and methods, by identifying and deliberately conducting outreach to isolated client groups, and by clarifying roles, relationships and expectations for all participants in the delivery system.

## **B. Necessary Types of Client Services**

The following continuum of legal aid services are necessary to achieve the Hallmarks and should be available to clients in every client service region:

- outreach and community education activities which help clients identify and avoid legal problems and tell them how to access the civil legal aid delivery system;
- accessible and accurate legal information on common civil legal problems
- Appropriate systems for legal aid intake, advice, brief service, and referral for further representation that are accessible and responsive to the needs of all low income people;
- effective advice, brief service, assistance with document preparation and review, and other services for pro se litigants;
- emergency legal assistance relating to issues implicating survival and safety, including domestic violence, housing, food and medical care;
- extended representation on legal problems affecting basic client needs and which empowers low income people to improve their lives and communities;
- representation in all relevant legal forums, using all lawful advocacy tools; and
- continuous engagement with low income communities to identify and initiate effective responses to emerging legal problems.

#### **V. SPECIFIC STRUCTURAL CHANGES DESIGNED TO ACHIEVE EQUITABLE ACCESS TO NECESSARY LEGAL AID SERVICES FOR LOW INCOME COMMUNITIES THROUGHOUT WASHINGTON STATE**

The Hallmarks<sup>22</sup> require equality of access to legal aid services and equality in the range of legal aid services available. The Civil Legal Needs Study documented that rural residents are less likely to know of the availability of civil legal aid services and are less able to access them. In many areas of rural Washington there is little civil legal infrastructure other than CLEAR and small local pro bono programs. Service delivery statistics show that (1) there are significant inequalities in the mix of legal aid services available to clients from one region of the state to another, (2) low income people in a number of areas of rural Washington are disproportionately underserved, and (3) that extended representation<sup>23</sup> is significantly less available to low income people living in many rural parts of the state.

There is an additional inequity that is less quantifiable, but which also has a negative impact on access to justice for many rural clients. This is the lack of sufficient legal aid presence in many counties. Experience demonstrates that consistent and reliable legal aid presence helps make the justice system more responsive and accountable to the legal concerns of low income people, and operates to deter those who might, in the absence of a civil legal aid presence, act with impunity on matters affecting low-income people and communities.

The structural recommendations in this section are designed to achieve equity of access to necessary civil legal aid services for low income people throughout the state, especially those living in rural parts of the state. They require planning in all regions (and especially in those new regions that do not currently have an attorney-staffed legal aid office), but they do not contemplate immediate, large scale movement of resources across the state. The ATJ Board recognizes that the benefits of an immediate large repositioning of client service capacities without more resources would be far outweighed by the disruption that such quick, large-scale change would cause in the short term.

In developing these recommendations, the ATJ Board has determined that the equivalent of 3.0 FTE attorneys is the minimum level of staffing needed to provide the

<sup>22</sup> Relevant Hallmarks for recommendations on rural delivery include: #2, #10, #11, and #12.

<sup>23</sup> See Definitions, Appendix J.



full range of client services set forth in Section IV.B above and to provide meaningful legal aid presence in any region. The ATJ Board has also determined that it is appropriate to divide the state into service delivery regions that include a minimum number of low income people sufficient to justify investing in permanent civil legal aid presence while, at the same time, ensuring effective legal aid presence in rural and isolated communities in the state. After considering relevant demographic, geographic and client service delivery information, the ATJ Board has concluded that this minimum number of low income people (including non-Census based individuals) for any region is 12,000 low-income residents. Below this threshold and in light of present and reasonably foreseeable resources available to the Alliance, it is not cost-effective or realistic to establish a permanent and sustained civil legal aid presence.

The structural recommendations set forth in this section will guide Alliance members and supporters in (a) allocating and coordinating currently available civil legal aid funding and resources, (b) seeking, securing and investing new resources for civil legal aid delivery and (c) should adverse funding circumstances require, reducing civil legal aid presence throughout the state. In every context, the benchmark will be equitable access for all clients throughout the state to the full range of services set forth in the State Plan.

## **A. Improving Rural Client Service Delivery**

### **1. The Problem**

By any measure, Washington State's civil legal aid delivery system is incapable of meeting the legal needs of low income people with important civil legal problems. This is the teaching of the Civil Legal Needs Study, which determined that 87% all low income people in the state who have a civil legal problem are unable to secure legal help. This is the case regardless of whether the low income person resides in the state's most populous county (King County) or in the most rural and isolated counties. This is true regardless of the nature of the legal problem experienced or the forum within which it is most appropriately addressed. Recognizing the gap between civil legal needs and the system's capacity to address them, the Supreme Court's Task Force on Civil Equal Justice Funding determined that it would take more than \$28 million per year in new funding to close the capacity gap and make civil legal aid services meaningfully available to low income people in Washington State.<sup>24</sup>

While civil legal aid services do not come close to meeting client needs in any part of the state, services are disproportionately unavailable to low income residents of rural Washington. For purposes of this discussion, the term "rural" means a county with a population density of less than 85 persons per square mile. Planning to overcome this disproportionality in client service capacity should be initiated now, recognizing that some necessary changes may not be fully designed or implemented without substantial new resources.

Five categories of providers are principally involved in the delivery of civil legal aid services to rural clients in Washington. These include:

- Northwest Justice Project-CLEAR
- Rural Pro Bono Programs
- Regional offices of the Northwest Justice Project (and Contract Attorney Program [CAP] relationships primarily in those communities not served by an NJP field office)

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<sup>24</sup> Task Force on Civil Equal Justice Funding, Final Quantification Analysis (May 2004)  
[http://www.courts.wa.gov/newsinfo/content/taskforce/Final\\_Quantitative\\_WG\\_Report.doc](http://www.courts.wa.gov/newsinfo/content/taskforce/Final_Quantitative_WG_Report.doc)

- Regional offices of Columbia Legal Services (CLS): CLS has five offices located throughout the state and provides full range, multi-forum systemic advocacy for clients who cannot be served by NJP and require services unavailable from resident pro bono programs.
- Other Specialized Providers: These include the Northwest Immigrants Rights Project which provides civil legal assistance to immigrants, refugees and immigration detainees; TeamChild, which provides civil legal assistance to youth involved in the juvenile justice system; and the Unemployment Law Project which provides civil legal assistance to individuals throughout the state who are denied unemployment compensation.

CLEAR is the single largest provider of civil legal aid to rural low income clients.<sup>25</sup> While clients can receive advice, some level of brief service and self-help assistance from CLEAR, many require extended levels of legal assistance, for which referral to a local or regional civil legal aid provider is required. The main entities to which CLEAR refers clients for legal assistance are local volunteer attorney programs and the regional offices of NJP. Also, in some regions where NJP does not currently have an office (e.g., southeast Washington, the Olympic Peninsula), NJP's CAP Program refers clients to private attorneys and compensates them at a reduced fee.

Low income people living in rural and isolated parts of the state experience significant barriers in accessing civil legal aid services. There are substantially fewer attorneys per poor person in rural Washington than in the more urban counties.<sup>26</sup> Rural counties are quite large and have limited or no public transportation systems. This results in greater isolation of low income people, and makes it much more difficult to achieve economies of scale in delivering civil legal aid to rural clients. Demographic and client service data shows that there are significant disproportionalities in available legal aid services in these areas, especially areas with significant numbers of people who were not counted in the Census. (See Chart 1 below.)<sup>27, 28</sup>

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<sup>25</sup> While courthouse facilitators provide services to large numbers of pro se litigants throughout rural Washington, they do not do so in the context of an attorney-client relationship. This Plan does not address the role of courthouse facilitators and does not apply to them.

<sup>26</sup> For example, there is one active attorney for every 15 eligible clients in King County; 1:45 in Spokane County; 1:55 in Pierce and Snohomish Counties. In contrast, there is 1:92 in Clallam County; 1:167 in Kittitas; 1:241 in Asotin County; and 1:273 in Stevens County.

<sup>27</sup> The numbers in the chart are derived from a master matrix showing the geographic allocation of the principal civil legal aid service delivery components in each of the 39 counties of the state. This allocation includes FTE equivalents of CLEAR, NJP field staff, NJP CAP attorneys, reported pro bono hours, weighted allocations of CLS capacity as well as an allocation of local and statewide specialty providers. The full chart from which these regional numbers are derived is available at:

<http://www.wsba.org/atj/committees/sprc.htm>

<sup>28</sup> These FTE numbers do not reflect staff attorneys employed by tribal governmental civil legal aid programs that provide legal assistance to residents of Indian reservations. The Colville Tribe has a reservation-based legal aid program that provides civil legal assistance to Native American residents of the Colville Indian Reservation which is located in Ferry and Okanogan Counties. The chart also does not attempt to geographically allocate FTE staff associated with the statewide Northwest Immigrants Rights Project.

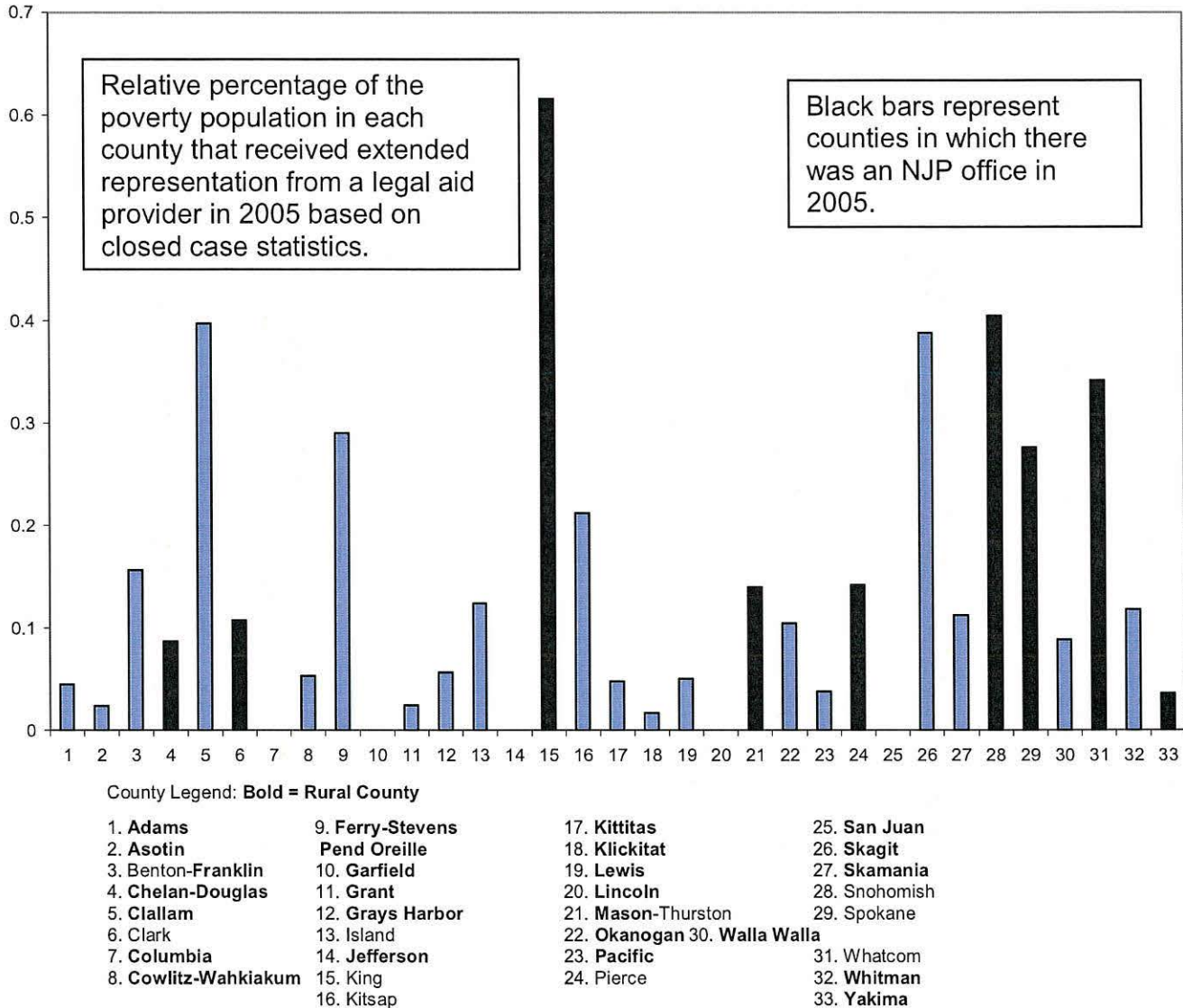


Chart 1

	Total FTE	Percentage FTE	Poverty pop.	Percentage Poverty Pop.	Difference	Equitable FTE Allocation (Poverty Pop)	Difference in FTE's
Benton/Franklin/Walla Walla/Columbia	8.7	5.30%	78966.5	8.23%	-2.93%	13.5	-4.81
Clark/Skamania/Klickitat	6.3	3.81%	45364	4.73%	-0.92%	7.8	-1.51
Cowlitz/Wahkiakum	2.1	1.26%	17236	1.80%	-0.53%	2.9	-0.88
Spokane/Lincoln	16.1	9.82%	69533	7.25%	2.57%	11.9	4.22
Ferry/Stevens/ Pend Oreille	2.8	1.68%	13088	1.36%	0.32%	2.2	0.52
Asotin/Garfield/ Whitman	0.8	0.50%	15636.5	1.63%	-1.13%	2.7	-1.86
Whatcom/Skagit/Island/ San Juan	9.8	5.97%	59192	6.17%	-0.20%	10.1	-0.33
Snohomish	12.9	7.85%	55078.5	5.74%	2.11%	9.4	3.46
Grant/Adams	5.2	3.18%	46935.5	4.89%	-1.71%	8.0	-2.81
Okanogan	2.5	1.51%	18221	1.90%	-0.38%	3.1	-0.63
Chelan/Douglas	3.5	2.15%	37885.5	3.95%	-1.80%	6.5	-2.95
Thurston/Mason/ Lewis	5.7	3.50%	46163	4.81%	-1.31%	7.9	-2.16
Yakima/Kittitas	11.4	6.96%	112971.5	11.78%	-4.82%	19.3	-7.91
King	45.3	27.62%	187246.5	19.52%	8.10%	32.0	13.29
Pierce	21.5	13.10%	95296.5	9.93%	3.16%	16.3	5.19
Kitsap	5.3	3.22%	26389	2.75%	0.47%	4.5	0.77
Clallam/Jefferson	1.8	1.08%	14551	1.52%	-0.44%	2.5	-0.71
Grays Harbor/Pacific	2.4	1.49%	19458.5	2.03%	-0.54%	3.3	-0.89
	164.1	100.00%	959212.5	100.00%	0.00%	164.1	0.00

Closed case statistics also show disproportionalities in the availability of extended client representation for low income residents in many rural parts of the state. (See Chart No. 2 below.)<sup>29</sup>

Chart 2



Social, cultural and linguistic challenges<sup>30</sup> compound these geographic factors. While CLEAR has proven to be effective in delivering services to rural residents who can

<sup>29</sup> This chart is derived from closed case statistics for NJP and the 24 pro bono programs and documents the relative percentage of clients receiving extended legal representation on a county-by-county basis. With some explainable anomalies (e.g., the Ferry-Stevens-Pend Oreille numbers are skewed by NJP's NAU cases; Skagit reflects services from an in-house specially funded attorney; and Clallam reflects cases handled by NJP's CAP program), it demonstrates that a greater percentage of urban clients obtain extended representation than clients in rural counties.

<sup>30</sup> In parts of rural WA, the client population is disproportionately Latino and Spanish speaking. For rural reservation-based Native Americans, geographic isolation compounds existing social and cultural barriers limiting access to legal aid. Rural residents with mental, developmental or physical disabilities are often geographically isolated from other necessary support services. Both NJP and CLS have developed dedicated staff capacity to assist in meeting the justice needs of migrant and seasonal farmworkers. NJP has a Native American unit (Seattle and Spokane) addressing the needs of reservation based clients. NJP and CLS endeavor to employ Spanish speaking bilingual staff lawyers in field offices and CLEAR, and a CLEAR attorney is assigned to outreach on Indian reservations.



access and use a telephone system, it has not yet proven to be as effective in reaching clients and communities that experience such compounding factors, despite substantial efforts to do so.

It is the responsibility of the Alliance for Equal Justice to make deliberate changes to current rural delivery systems that are necessary to provide consistent and reliable legal aid services to clients living in these areas. These changes obviously cannot occur overnight, and benchmarks for minimum client service levels will not be achieved at the same time or in the same way in every region. Some changes can be achieved in the short term through effective and inclusive planning using a set of commonly understood objectives, while other changes will necessarily be dependent upon achieving substantial increases in resources.

## **2. Detailed Discussion of Specific Changes**

A fundamental objective of this State Plan is to achieve a minimum level — or floor — of client service presence in all parts of the state. This minimum level of presence must incorporate the ability to deliver the basic range of client services outlined in Section IV.B above and serve as an effective community-based deterrent. Over the next three years, regional legal aid partners (with support from statewide entities) will develop plans to move toward a minimum level of client service capacity in each region.

### **a. Redrawing Regions**

Effective legal aid presence can be achieved and client service delivery can be enhanced in underserved areas by focusing efforts on regions of reasonable size and that share common geographic, social, economic, demographic and other characteristics. Thirty-one of Washington's 39 counties can be considered to be predominately rural in character (using the fewer than 85 persons/sq. mile standard). Operational efficiency combined with current and prospective resource limitations dictate that this State Plan establish a level of potential client demand below which it does not make sense to invest in and maintain a physical legal aid presence. As noted above, the ATJ Board has established this level at 12,000 low income people.<sup>31</sup>

Using the "no fewer than 12,000 low income people" basis, the state's 39 counties will be organized into 19 client service delivery regions. Fourteen of these regions are predominately rural in character (even though some, like the regions that include Bellingham and Olympia, have big cities). Appendix H sets out these 19 regions.<sup>32</sup>

Fulltime offices of staffed civil legal aid programs with a minimum level of 2 FTE attorneys are present in only 11 of these 19 proposed regions. Clients in the eight remaining regions are served locally through satellite offices (e.g., Omak) as well as a combination of visits from legal aid staff located in another region and services provided by CAP attorneys, local pro bono programs and other specialized providers. The delivery systems in the eight regions without adequate access to legal aid services need to be upgraded.

### **b. Basic Benchmarks for Achieving Minimum Presence:**

Presence is central to the effectiveness of the civil legal aid system. Presence ensures client knowledge of and access to services, and serves as a deterrent to conduct that undermines or violates the rights of low income people and communities. There has not been meaningful legal aid presence in many parts of rural Washington since the very early 1980's. To address this problem, this State Plan directs that:

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<sup>31</sup> This includes low income people not included in the census, e.g. undocumented persons and residents of institutions.

<sup>32</sup> Precise configuration of the regions may change over time based on experience and client need.

- The legal aid system achieve a minimum client service delivery presence of at least 3.0 FTE advocates in every region with at least 12,000 low income people (including people not eligible for state and federally funded legal aid services).<sup>33</sup> Of these, not more than 1 FTE advocate should be devoted to intake, advice, referral and other brief or limited services through local and/or remote means (including CLEAR), and at least 2 FTE advocates should be present within the region and be able to provide direct, extended representation to clients on high priority cases. The 3.0 FTE's should be configured to provide the full range of required client services set forth in Section IV.B. of this State Plan.<sup>34</sup>
- An FTE advocate may be composed in whole or part by any of the following: staff legal aid and special project attorneys and paralegals, the FTE equivalent representation delivered by local pro bono programs (both through in-house legal staff and volunteer attorney hours),<sup>35</sup> FTE equivalent of hours of client representation through private attorney contracts, representation resulting from employment of local attorneys on a part time basis, the percentage of FTE services delivered by CLEAR to the region, and other comparable configurations that meet the principles set out in the Hallmarks and discussed in this State Plan.
- Legal aid can be "present within the region" through any or some combination of the following: full or part-time staff attorneys who maintain an office within the region; staff attorneys from outside the region who spend regular periods of time physically present at a specific location and providing services to clients within the region; pro bono programs that provide consistent and regular services to clients within the region (whether through in-house legal staff or volunteer attorney services); local private attorneys contracted to provide regular and ongoing legal aid services to clients in the region; or by other similar means.
- The Alliance should invest new resources in three stages: First, resources should be invested to achieve minimum legal aid presence in all regions. Next, resources should be invested to equalize access on a per capita poor person basis. This will require the investment of new resources to address areas that are disproportionately underserved (as reflected in Chart 1). Once geographic equity has been achieved, additional resources should be invested to upgrade the entire system so that clients in all areas of the state have relatively equal access to civil legal aid services.

Local planning is central to achieving effective and reliable legal aid delivery consistent with the requirements of the Hallmarks and this State Plan. How the delivery mix should be configured and how legal aid delivery should be coordinated in any region can only be determined through a deliberate planning and implementation process. The touchstone for regional partners will be to develop a system and corresponding set of organizational relationships that makes the full range of relevant client services available to address high priority client needs within the region.

Initial planning will be directed at achieving the most effective coordination of existing resources (local, regional, statewide) to address the needs of rural clients as

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<sup>33</sup> An "FTE advocate" delivers 1500 hours of client representation per year.

<sup>34</sup> In some regions the mix of existing client service capacities (professional legal aid, CAP, pro bono, CLEAR, etc.) may result in a determination that more than 3.0 FTE's will be needed to achieve the full complement of required client service capacities. In these situations, the minimum level of FTE's will end up being more than the minimum 3.0 FTE floor.

<sup>35</sup> Including the % of advocates employed by pro bono programs who themselves represent clients.



determined by the Civil Legal Needs Study and periodic local and regional client priority assessments. The objective is to achieve the most effective use of existing client service delivery resources in relation to the highest priority needs of clients in the region. In regions at or above the minimum 3.0 FTE level, planners will need to ensure that the full range of delivery services is available to all clients on an equitable basis consistent with the Hallmarks and this State Plan. As new resources become available, planners will work to achieve the minimum level of 3.0 FTE's within the region (in those regions that are below this threshold), expand access for all clients to the full range of services and overcome inequities within and between regions.

In a number of regions, especially those where there is currently no staffed legal aid office and less than the 3.0 FTE benchmark for adequate legal aid presence, planners will be required to work with their counterparts in contiguous regions.<sup>36</sup> It is very likely that regional planning will result in changes in many parts of the rural delivery system.

The foundation of Washington's civil legal aid delivery system is a statewide general practice legal aid program – the Northwest Justice Project (NJP). NJP hosts the statewide intake/access system, maintains field offices that serve clients in all 39 counties of the state, serves as the fiscal agent for the administration of state-appropriated legal aid funding, and carries out an array of state support functions that benefit the Alliance. NJP is staffed with full time, professional legal aid attorneys and has sufficient infrastructure to provide consistent supervision, training, oversight, accountability and support to meet client service expectations consistent with applicable state and national standards and to perform the other functions assigned to it under this State Plan.

The primary role of pro bono programs is to recruit and support volunteer lawyers in representing eligible clients. Some pro bono program managers are attorneys in active practice and provide both direct client assistance and coordination of volunteer lawyer services; some pro bono programs have employed staff attorneys to provide services, usually under special grants for specific case types. These types of configurations may or may not be the most effective approaches for achieving presence and meeting the needs of clients in the area.

In determining under what circumstances staff attorney and pro bono coordination roles should be combined in an independent program, rather than becoming part of a larger organization, funders should consider:

1. whether the program brings to the table significant continuing resources that are otherwise unavailable to the Alliance;<sup>37</sup>
2. whether the program is coordinating client services and case service priorities with NJP, CLS (where appropriate), and other regional partners in ways that are consistent with regional clients' needs;
3. the degree to which the program uses its in-house attorney services available to serve clients who are ineligible for services from NJP and CLEAR; and

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<sup>36</sup> For example, planners in the region that includes Ferry, Stevens and Pend Oreille Counties will work closely with providers in the Spokane-Lincoln region to achieve the minimum client service capacities within the Tri-County region and to work toward equity of client service capacity between the regions.

<sup>37</sup> This could include the commitment of substantial continuing non-legal aid resources like Community Services Block Grants (CSBG), Community Development Block Grants (CDBG), local municipal, or other resources, the acquisition of which does not compete with or undermine efforts associated with the Campaign for Equal Justice or the Equal Justice Coalition.

4. whether maintaining an independent pro bono program is an efficient and effective means of achieving presence in the local community consistent with the goals and aspirations of this revised State Plan.

**c. Achieving the Benchmarks**

Achieving minimum presence in every region will not happen overnight, and it will, in some locations, be dependent upon the acquisition of substantial new resources. At the same time, planners and program managers should prepare for, identify and seize opportunities to move toward the objective of minimum presence. Among the potential approaches that might be explored as resources become available are:

- Placing full time staff attorneys in satellite offices located within the rural population centers. Depending upon the mix of clients in the region,<sup>38</sup> such offices could be hosted by NJP or other legal aid providers or community based agencies.
- Contracting with local private attorneys on a full or part time basis to serve as legal aid attorneys in specific localities. This is different from the current Contract Attorney Program, through which NJP contracts with individual attorneys on a case by case basis. This approach would purchase a percentage of a local attorney's time, and would provide opportunity/expectation for the attorney to be effectively trained, supported and overseen by a regional legal aid field office.
- Co-locating staffed legal aid attorney(s) with a well-configured volunteer attorney program.
- Detailing legal aid attorneys for certain periods of time per week (e.g., three days per week) to conduct business and be continuously present in the regional center for that part of the week.
- Expanding services through the Contract Attorney Program where this approach appears effective.
- Investing in and employing new technologies (e.g., real-time videoconferencing, web casting, etc.) to connect legal aid attorneys with clients and courts in remote and isolated locations.
- Combining attorney services with an appropriate level of local non-attorney services to do outreach to hard-to-serve client communities, engage in legal education and provide pro se assistance to clients as appropriate.

Resources can become available in two principal ways: (1) new resources are secured from one of the principal funding sources (Office of Civil Legal Aid – OCLA, Legal Services Corporation – LSC, Legal Foundation of Washington – LFW) or (2) staff turnover within one region provides an opportunity to consider ways of investing the freed up resources in another region (or former sub-region)<sup>39</sup> that is below the minimum presence threshold.

On the basis of geographic, client service and client demographic analyses conducted by the State Plan Review Committee, the regions including the following counties

<sup>38</sup> Planners must ensure that some capacity is available to assist clients resident in the region who, because of their status, may not be eligible for services from the Northwest Justice Project.

<sup>39</sup> For example, the area that currently comprises the East region includes three discrete regions: Ferry-Stevens-Pend Oreille, Spokane-Lincoln, and Asotin-Whitman-Garfield. Among these, the Spokane-Lincoln Region is relatively over staffed vis a vis the Asotin-Whitman-Garfield region. Attrition in the Spokane regional office might be considered to provide a strategic opportunity to explore ways to upgrade client service delivery in the Asotin-Whitman-Garfield region.



should be targeted for movement toward the minimum necessary 3.0 FTE advocates over the next three years:

- Ferry, Stevens and Pend Oreille Counties
- Okanogan County
- Asotin, Whitman and Garfield Counties
- Cowlitz and Wahkiakum Counties
- Grays Harbor and Pacific Counties
- Clallam and Jefferson Counties

The regions including the following counties will require significant additional resources to achieve equity of service delivery capacity:<sup>40</sup>

- Benton, Franklin and Walla Walla Counties
- Grant and Adams Counties
- Yakima and Kittitas Counties
- Chelan and Douglas Counties
- Thurston, Lewis and Mason Counties

### **3. Objectives Achieved: Achieving Meaningful Legal Aid Presence in Rural Washington**

The approach outlined in this State Plan, when implemented through collaborative regional planning efforts, will move toward ensuring that: (a) the constructive and deterrent benefits of legal aid presence in local communities is achieved in all rural areas of the state; (b) there is an appropriate mix of civil legal aid resources available to clients in all relevant delivery areas; and (c) all legal aid programs are effectively integrated into a seamless system that is responsive to high priority client needs. This approach will also result in the placement of full-time professional, effectively trained and supervised legal aid attorneys throughout rural Washington. Finally, this approach should result in substantially equal opportunities for low income people to obtain civil legal aid all areas of the state.

#### **B. Strengthening Pro Bono Service Delivery<sup>41</sup>**

##### **1. The Problem**

A pro bono program is an organization or organizational component that has as its principal focus the recruitment, support, training and retention of volunteer attorneys in order to deliver a variety of free legal services to low income individuals. These services may include advice clinics, public information, brief services, unbundled legal assistance, and extended representation by the volunteers. The pro bono program staff may or may not deliver direct legal services to clients. The program may exist in any one of a variety of configurations including an independent nonprofit agency, a program co-located, associated with or operated by a local bar association or social service agency, or a program run by an attorney-staffed legal aid program.<sup>42</sup>

Rule of Professional Conduct (RPC) 6.1 establishes the expectation that attorneys licensed to practice in Washington should render at least 30 hours of pro bono legal aid services each year. Even with this expectation and the establishment of programs throughout the state to recruit, support and refer cases to pro bono attorneys, the vast

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<sup>40</sup> These are regions that, while above the 3.0 FTE level, fall substantially below their proportionate share of legal aid delivery capacity when considered on the basis of relative poverty population.

<sup>41</sup> Relevant Hallmarks for strengthening pro bono service delivery include #2, #5, #11, #12 and #13.

<sup>42</sup> Pro bono programs are sometimes called volunteer attorney programs or volunteer lawyer programs (or VLP's). We have simply picked one consistent term for all of these.

majority of attorneys in Washington do not provide pro bono services to low income people.

There are significant obstacles to effective involvement of pro bono attorneys in many areas. These include unequal geographic distribution of attorneys; lack of focused, practical, and satisfying volunteer opportunities for interested private attorneys; conflicts resulting from other professional duties (e.g., service as part time prosecutor or public defender contracts); and an unacceptably low level of understanding, acceptance and institutionalization of pro bono responsibilities in some parts of the organized bar. On average, about 75% of active attorneys are free of conflicts or other institutional limitations and can be said to be "available" to provide pro bono legal services.<sup>43</sup> Of these, pro bono participation rates consistently hover around 10%.<sup>44</sup>

Even among those who are available and willing to provide pro bono assistance to low income people, most limit their services to legal assistance with a limited focus, and are unlikely to engage in extended representation of clients in contested judicial proceedings. Outside of the largest urban areas (and even within some of these), volunteer attorneys are not a consistent and reliable source of extended representation for clients with the most difficult and time-consuming civil legal problems in many areas of high client need (as determined by the Civil Legal Needs Study and periodic local priority setting processes).

Washington's experience with pro bono participation rates and the scope of services that pro bono attorneys are willing and able to provide on a consistent basis mirrors national participation rates. This experience confirms that there is a threshold number of available attorneys needed before any local legal community can be expected to consistently and reliably contribute a level of pro bono services equal to one FTE legal aid attorney (1500 hours).<sup>45</sup> The ATJ Board has determined that this number is somewhere around 160 attorneys. Stated differently, it is unreasonable to expect that a legal community with substantially less than 160 available attorneys will be able to provide at or near 1500 hours of pro bono legal aid services per year.<sup>46</sup>

#### **a. Pro Bono Program Configurations**

Pro bono programs in Washington exist in a wide variety of configurations. While all do the best they can with the funding and resources available to them, the consistency and effectiveness of their client services varies depending upon the size of the legal community, the number of attorneys available to participate in the pro bono program, the types of services that local attorneys are willing to provide on a volunteer basis and the continuity of and support for program staff.

There are currently 24 pro bono programs in Washington. In the largest cities<sup>47</sup> they are closely attached to staffed bar associations. In some rural counties they operate as stand-alone non-profits under the umbrella of local bar associations.<sup>48</sup> In several rural counties they are part of a community action or other social service agency.<sup>49</sup> Over half are independent, stand-alone nonprofit agencies, many with a small (less than 2.0 FTE) paid staff. Ten of these programs are the only legal aid provider with daily

<sup>43</sup> This number is much lower in small, predominately rural communities where the total number of "active" attorneys is very small.

<sup>44</sup> Measured in terms of those attorneys who reliably contribute 30 hours of pro bono services each year.

<sup>45</sup> The 1500 hours = 1FTE relationship was developed by the Supreme Court's Task Force on Civil Equal Justice Funding. See Task Force on Civil Equal Justice, Quantification Analysis at [http://www.courts.wa.gov/newsinfo/content/taskforce/Final\\_Quantitative\\_WG\\_Report.doc](http://www.courts.wa.gov/newsinfo/content/taskforce/Final_Quantitative_WG_Report.doc).

<sup>46</sup> This works about to about 9 hours per year per available attorney assuming a base of 160 available attorneys. If one-third of these available attorneys contributes 30 hours per year, the legal community will deliver about 1 FTE worth of legal aid services.

<sup>47</sup> Seattle, Spokane, Tacoma, Everett, and Vancouver

<sup>48</sup> E.g., Yakima, Chelan-Douglas, Whatcom

<sup>49</sup> Skagit, Okanogan, Grant, Whitman, Asotin/Garfield/Columbia, and Ferry/Stevens/Pend Oreille Counties



physical presence in the 15 counties they serve.<sup>50</sup> Pro bono recruitment and support in eight of these programs is performed by non-lawyers. At the time of this writing, three of these ten programs (Skagit, Clallam and Kittitas) had a licensed attorney staff coordinator who not only recruits and supports pro bono service delivery, but also provides discrete task or unbundled civil legal aid services to eligible clients.

The variety of configurations and the small size of many programs have made it especially difficult to establish and uphold performance expectations against consistent standards for client service delivery and pro bono program operations. Whereas staffed programs have moved effectively towards greater consolidation and coordination, the lack of coordinated infrastructure for pro bono programs has made communication and coordination much harder for them.

This State Plan supports the efforts of volunteer attorneys to provide free legal aid to low income people across the state and creates an expectation that each region will develop a plan to do this in the most effective way given the availability of local volunteer attorneys, the availability of other legal aid services and the demographics of the target client population. At the same time, this State Plan seeks to reduce the administrative burdens, inefficiencies, and redundancies of maintaining many small separate programs.

The ATJ Board believes that the administrative costs of maintaining separate and independent pro bono programs are too great unless there is an available volunteer base of sufficient size to provide at or near 1 FTE legal aid attorney's worth of service. Pro bono programs that are organizationally separate from other Alliance members and do not have a potential volunteer base that could reliably leverage this level of services are expected to work with their regional partners to evaluate other organizational configurations that will more effectively integrate administration of the pro bono function into the regional delivery system. Programs that fall into this category include: Asotin, Clallam, Cowlitz, Grant, Island, Kittitas, Lewis, Okanogan, Tri-County (Ferry, Stevens, Pend Oreille), Walla Walla, and Whitman.

Planners in these regions should determine how the pro bono function can be sustained and effectively integrated into client service delivery, consistent with realistic expectations regarding the amount and nature of pro bono contributions that can be achieved. The objective is to direct resources to stable and viable entities capable of reliably leveraging meaningful levels of pro bono services while ensuring that local attorneys in every county continue to have appropriate opportunities to provide pro bono legal aid services to clients in their communities.

Implementation of this part of the State Plan should result in a more effective use of limited resources and will better channel the energy and contributions of private volunteer attorneys into the delivery of legal services to clients most in need. A key measure of the success of this section of the State Plan will be an increase in the amount, diversity and consistency of pro bono services that are responsive to the highest priority needs of clients.

The ATJ Board emphasizes that the goal is to preserve and expand the delivery of legal services, including services provided by pro bono attorneys, throughout Washington. The continued support of the local bar, bench and community-based organizations is highly valued. Their energy, their efforts, and their financial support are essential components of the overall legal aid delivery system. Consequently, planning to achieve effective administrative structures for the integration and delivery of pro bono services in rural areas should take into consideration the important role that members of local

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<sup>50</sup> Skagit, Lewis, Island, Kittitas, Asotin, Clallam, Cowlitz-Wahkiakum, Kitsap, Grant-Adams, Ferry-Stevens-Pend Oreille and Whitman.



bars play not only in meeting the direct needs of clients but in other areas, including efforts to expand public and private resources for civil legal aid.

**b. Pro Bono Support:**

Pro bono program staff coordinators are taxed with reporting to their local oversight boards and host programs (bar association, Community Action Program, etc.) as well as their principal funders, each of which may have different reporting standards and performance expectations. Coordinators must carry out all of the administrative functions necessary to keep even the smallest of the programs going. They often struggle to support the full range of their services (including advice clinics, pro se services, brief services, unbundled and extended representation), while also having to recruit, train, support, and recognize volunteer attorneys; provide public education and outreach; raise operating funds and handle administrative duties, including bookkeeping, human resources, reporting; and provide board support and development.

Although some statewide support has been provided to help with these tasks, there is not a consistent and reliable infrastructure (including a modern case management system). Pro bono programs suffer from inadequate technology support, low benefit and salary levels in relation to the demands of the work, and minimal or nonexistent budgets for training, technical assistance and support, travel, and development. These conditions, coupled with serious limitations on the likely level of potential volunteer attorney services that can be leveraged in some geographic areas, contribute to frustration, burnout and a very high level of pro bono staff turnover.<sup>51</sup>

This State Plan aims to strengthen and support the capacity of volunteer attorney programs to deliver reliable legal aid services that are responsive to high priority client needs. This will be accomplished by supporting the common needs of programs, the clients they serve and the pro bono attorneys they recruit to represent clients in the following ways:

- using economies of administrative scale and providing ongoing effective statewide support;
- defining and implementing professional standards of practice to improve client access and make sure program performance meets high standards;
- developing acceptable models and moving into new administrative configurations (where appropriate) that achieve viable levels of administrative capacity and are most appropriate to leveraging potential volunteer services that are responsive to client service needs;
- fostering the use of technology to increase client and volunteer attorney program access to relevant resources; and
- working to cement the provision of pro bono services as an enduring cultural value and practice within the organized bar.

To help achieve these objectives, the existing statewide Pro Bono Support Coordinator position should be upgraded from .5 FTE to 1 FTE and established as a permanent, full-time component of the statewide support system. The ATJ Board, Columbia Legal Services and the Legal Foundation of Washington should work with the Pro Bono Support Coordinating Board<sup>52</sup> to determine how the position should be funded and where it should be located. This full-time equivalent position will be responsible for the following activities:

<sup>51</sup> Ten Washington pro bono program administrators have left their jobs in the last twelve months.

<sup>52</sup> The Pro Bono Support Coordinating Board is an informal group that includes representatives from the ATJ Board, LFW, CLS, NJP and the pro bono community and which provides guidance to and oversight of the work of the .5 FTE Pro Bono Support Coordinator.

- coordinate with the WSBA's Pro Bono and Legal Aid Committee's efforts to develop and implement creative strategies that remove barriers to pro bono involvement;
- coordinate local program staff, board, and volunteer training; consult with and provide technical assistance to pro bono programs; provide support for information technology, including case management system operations;
- in consultation with the State Plan Implementation Committee and Alliance members and funders, develop clear professional standards<sup>53</sup> and strategies for pro bono programs to meet these standards;
- identify and develop recommendations designed to eliminate the inequities and administrative limitations and redundancies that currently undermine pro bono program effectiveness;
- recommend specific organizational models designed to enhance pro bono program administrative capacity and achieve intended pro bono participation rates;
- ensure that pro bono programs remain aware of and develop strategies to serve clients who are ineligible for legal aid services from federal and state funded programs;
- identify, evaluate the effectiveness of, and implement innovative delivery methods and other creative solutions for overcoming geographic barriers to pro bono attorney involvement and providing pro bono attorneys in urban counties with opportunities to help to clients in rural counties; and
- work with the WSBA and local, specialty and minority bar associations to develop statewide pro bono panels and to promote a culture of volunteerism within the private bar.

## **2. Objectives Achieved: Strengthening Pro Bono Service Delivery**

Through upgrading the Pro Bono Support Coordinator position, establishing and working with pro bono programs to follow consistent professional standards, helping to reorganize programs where appropriate, equalizing compensation and performance expectations, and providing sufficient resources for pro bono program operations, the Alliance will move toward more integrated, stable, robust and innovative pro bono attorney involvement in efforts to address the civil legal needs of low income people in all areas of the state.

### **C. Centralized Intake and Client Access in King County: The Problem<sup>54</sup>**

#### **1. The Problem**

Currently, if a low-income person in Washington needs legal assistance and can access services via a telephone, he or she can call the CLEAR hotline for an intake, advice, brief service, and/or a referral. This service is available to all low-income people except for residents in King County, where it is limited to people over age 60. Low income people in King County needing legal assistance, can either call a legal aid provider directly for an appointment with an attorney, briefly consult in person with a volunteer attorney at a legal clinic, or call one of the legal or non-legal hotlines for advice or information.

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<sup>53</sup> These standards should be consistent with the ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, the Hallmarks, expectations outlined in this State Plan and other relevant standards

<sup>54</sup> Relevant Hallmarks are #1, #2, #3, #14



King County has the largest number and diversity of legal aid providers in the state. To ensure efficient, non-duplicative service delivery, these providers regularly plan and coordinate their delivery efforts. For example, the King County Regional Planning Group and Northwest Justice Project (NJP) post a comprehensive legal resource directory for King County on the NJP website at

<http://www.washingtonlawhelp.org/WA/StateDirectory.cfm/County/%20City/%20demoMode/%3D%201/Language/1/State/WA/TextOnly/N/ZipCode/%20/LoggedIn/0> .

This site is updated periodically to include changes to individual providers' priorities and intake procedures. However, the directory cannot be adjusted every time changes occur. As a result, low income people may end up calling a provider that no longer offers certain services listed in the directory or they may misdiagnose their legal problem and call the wrong provider. Further, this directory is only available via the Internet, so people without internet access cannot use the directory. Consequently, clients may call providers from an outdated list which they are given by the court or a government agency; they may never find an entry point into the legal aid system because they are overwhelmed by the number of places to call; or they may give up after being referred from place to place without any help.

Additionally, a number of King County-based programs, such as the King County Bar's volunteer legal clinics, while very useful, nevertheless require a person to physically meet with an attorney for brief service and legal advice. This means many people from rural King County must travel long distances. This imposes an unnecessary burden on clients who could benefit from access to a centralized telephone-based intake, advice and referral system.

The most glaring need is for a centralized intake system. Such a system would improve the effective use of technological resources and collaboration among the staffed legal aid programs, private attorneys, pro bono programs, specialized legal aid programs, private and non-profit law firms, justice system workers, social service providers, and client groups and individual clients. Significantly, such a centralized system would reduce client confusion and enhance the providers' ability to make timely, effective and efficient referrals. As the CLEAR experience has demonstrated in other parts of the state, centralized intake will provide low-income people in King County with access to a relatively uniform, highly accessible, user-friendly client intake and case evaluation and referral system capable of responding to their legal needs. Further, by implementing centralized intake, existing programs could spend more of their resources delivering legal services rather than helping people navigate the system.

## **2. Detailed Discussion of Specific Changes**

A representative group of CLEAR staff and King County legal aid providers and resource/referral centers will develop specific recommendations for implementing a centralized intake system for low income people in King County. The recommendations should be presented within six months of adoption of the revised State Plan and include:

- an overview of the type and purpose of the centralized intake system;
- the range of services the system will offer (i.e., just screening, intake, and referral or more services such as advice or brief service);
- the type of staff required to answer the hotline (i.e., attorneys, paralegals, screeners or some combination);
- the role of pro bono attorneys in staffing and/or supporting the system;
- the types of legal problems for which help will be provided (i.e., Will services be limited to certain priority subject matter areas or, as in the case of CLEAR, will

clients receive advice, brief service and referral on the full range of legal problems that they may be experiencing?);

- how the system will overcome substantive or status-based limitations imposed by law or contract;
- a description of how the system will coordinate with existing programs and program components that provide client navigation and access in King County – including -- the legal resource directory from the NJP website, the legal clinics such as the King County Bar Association’s Neighborhood Legal Clinics and Seattle University’s Community Justice Centers, the legal hotlines offered by providers such as the Northwest Women’s Law Center and the Unemployment Law Project, and the non-legal hotlines such as the one offered by the Crisis Clinic;
- how the system will minimize the potential for duplication of services; and
- how the system will minimize some of the client access challenges observed with the CLEAR system, including obstacles experienced by low-income people who are unable to navigate the legal services delivery system via a telephone-based intake system because of where they live; their inability to speak and/or write English; culture; age; disability; the nature of their legal problem.

The report should set forth both (1) a timeline for implementation and (2) an estimate of the resources (financial, technological, staff, and volunteer) necessary to develop, implement and support the system. Provided resources become available, the Alliance and ATJ Board will then assist King County providers in implementing a system.

### **3. Objectives Achieved: Client-Friendly, Efficient Intake and Referral in King County**

Through implementation of a centralized intake system in King County:

- Low income residents in King County will be able to more easily and effectively access legal aid for intake and appropriate referrals.
- An already high degree of cooperation and collaboration among all providers in King County will be enhanced.
- Existing agencies can apply more resources towards offering effective advice, brief service, document preparation/review and other services.

#### **D. Improving Access to Civil Legal Aid for All Low Income People<sup>55</sup>**

Consistent with the Hallmarks, all low income people should have the ability to obtain information about their legal rights and responsibilities and a meaningful ability to access necessary legal aid services regardless of their legal status, their social, cultural, linguistic, physical, mental, developmental or sensory limitations, the nature of their legal problem or where they reside. Statewide systems such as CLEAR and [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) provide information and entry into the legal aid system for many low income people (with the exception of low income residents of King County). But many others cannot meaningfully access or obtain the full benefits of these systems. To be effective, intentional efforts must be undertaken to develop intake, access, education and outreach capacities that address the gaps in existing statewide intake and access systems and ensure that no group is systemically denied access to essential civil legal aid services.

#### **1. The Problem**

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<sup>55</sup> Relevant Hallmarks for Improving Client Access are #2, #5, #9, #11 and #14.



Many persons with civil legal needs in Washington who are unable to afford legal help and who have ready access to a telephone can obtain specific free legal advice and brief legal services by a competent attorney or highly qualified paralegal through the centralized toll-free CLEAR system operated by the Northwest Justice Project. At the same time, CLEAR is unavailable to many low income persons with significant legal needs either because of their immigration status, the forum within which their matter needs to be addressed or the substance of their legal problem. Experience also demonstrates that CLEAR is not currently as effective as it might be in assisting many low income persons due to communication problems, mental or sensory limitations, educational or literacy level, the need for emergency help or the use of a cell phone. CLEAR staff capacity, hours of operation, and the vagaries of telephone technology (e.g. cell phone service access, wait times, etc.) also substantially limit the number of people who can be helped.

In addition to these basic access problems, the Civil Legal Needs Study documents that nearly half of all low income people who experience a civil legal problem do not realize that there are laws to protect them or that relief can be obtained from the justice system. As a consequence, many who require legal aid services and who might otherwise be able to access CLEAR, do not do so — and end up facing their problems without any legal help whatsoever.

The Civil Legal Needs Study also confirms that, while many low income people have access to the Internet and may be able to secure self-help assistance from [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), the majority do not. Clients living in rural parts of the state have a disproportionate lack of access to Internet based resources.

Finally, many low income people find it necessary to assert or defend important rights and interests in contested court proceedings. Effective assistance of legal counsel is central to their ability to be fairly heard, but there is no system for appointing counsel for those who otherwise cannot secure necessary legal representation.

## **2. Detailed Discussion of Specific Structural Changes to Improve Client Access**

- The Legal Foundation of Washington should work with Alliance members serving client populations that are ineligible for the full range of CLEAR services to develop, test and evaluate models of providing efficient intake, advice, brief service and referral to these client populations in ways that do not stigmatize or otherwise inadvertently cause clients not to seek legal help. The Alliance should consider wider implementation of models tested and found to be effective.
- A permanent task force of Alliance members should be established to develop and oversee implementation of a statewide outreach, education and access plan targeted to reach members of client communities who are unaware of or experience barriers to accessing legal aid services or self-help information, including clients and client communities who are not eligible for federal or state-funded legal aid services. The statewide plan should be integrated with and support regional outreach plans.
- All regional client service delivery plans should include outreach and community based legal education, information and access strategies for client communities who cannot adequately access CLEAR. Community based outreach and educational activities should be located in places where identified communities of persons who are unable to afford legal counsel gather, such as senior centers, Indian Reservations, community action programs, social service agencies, migrant health centers, churches, legal aid program offices, domestic



violence advocacy programs, court houses, schools, etc. Outreach and community based activities should be fully accessible to the target population, including members with disabilities or language access needs.

- The Northwest Justice Project should continue to evaluate strategies and, if necessary, structural changes to achieve more equitable utilization of CLEAR services by members of certain client groups who, due to cultural, technological, ability and other barriers, currently underutilize CLEAR services.
- CLEAR should enhance its capacity to provide immediate services to persons with emergent or particularly critical legal needs including but not limited to survivors of recent domestic violence, victims of trafficking, and persons facing imminent evictions.
- When other free legal resources are not available to represent a party in a judicial proceeding that significantly affects fundamental interests or basic human needs a system should be established and funded for the appointment of counsel to represent the indigent party. The Alliance should continue its efforts to establish the right to counsel in important civil cases for those who cannot afford lawyers.

### **3. Objectives Achieved: Improving Client Access**

Greater access to justice will be achieved by ensuring a system for providing access to those who cannot be served by CLEAR; developing alternative access points and methods for eligible clients who experience barriers to accessing CLEAR and [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org); undertaking a systematic approach to client community education and outreach; and developing systems to ensure that legal representation in judicial proceedings is available for those who require it.

#### **E. Other Structural Topics and Observations**

The Committee identified several additional structural topics that were not as urgent or compelling and did not result in specific recommendations for change in the delivery structure, including the following:

- **Evaluate current approach taken to special population (e.g., Native American, institutionalized, farmworker) client service delivery:** The Committee discussed whether to continue the historical project-based approach to special population client service delivery or to recommend more substantial integration of such services into the work of local staffed offices. This topic should be discussed further by the broader advocacy community and addressed more fully by or before the next update to the State Plan.
- **Improve collaboration between law schools and other participants in the delivery of civil legal aid:** More substantial discussion occurred regarding the role of, and possible improved collaboration with, the state's three law schools, operated by the University of Washington, Gonzaga and Seattle Universities. Each law school has a clinical teaching program in which students provide limited legal services to low income clients, and many of these clinical programs are already operated in close collaboration with civil legal aid providers. However, because law school clinic-based services are provided in very limited numbers only during the period of academic instruction, such services should be seen as valuable enhancements to the core delivery structure but not be expected to represent significant numbers of clients. Other law school based programs assist or involve students in public interest law in a variety of ways, including linking students with volunteer opportunities in the

community and with legal aid providers. It does appear that there may be specific advocacy projects, such as the Civil Gideon project currently hosted by the Northwest Justice Project, which could effectively be hosted and led by law schools.

- **Improve collaboration with other entities providing related services to low income clients (e.g., courthouse facilitators, local human services agencies or non-legal advocacy groups):** This was not discussed beyond its initial identification, but is recommended as a topic for future consideration by the State Plan Oversight Committee. However, entities that serve clients in particular areas, such as courthouse facilitators, should be included in the regional planning efforts required by this State Plan.
- **Renew emphasis on client and community outreach and education on substantive legal issues:** This was not discussed beyond its initial identification, but is recommended as a topic for future consideration by the State Plan Oversight Committee.

## **VI. STRENGTHENING STATEWIDE SUPPORT FUNCTIONS**

### **A. State Planning and Implementation**

**Description of Function:** This is the process to ensure strategic use of resources to attain delivery of relevant and high quality civil legal aid to low income people and communities in Washington. This process is ongoing, collaborative and inclusive. It requires consistent monitoring to identify new or additional initiatives that require coordinated statewide planning focus.

**Location and Responsibility:** A Supreme Court Order directs that this function be carried out by the Access to Justice Board.

**Plan for Implementation:** The ATJ Board will establish a permanent State Plan Oversight Committee (SPOC) to oversee and provide technical support for implementation of the revised State Plan and to monitor changes in the civil equal justice system that may require new or additional planning focus. (See Section VIII., Implementation and Oversight, for a discussion of the implementation plan).

### **B. Evaluation and Accountability**

**Description of Function:** The effectiveness of a civil legal aid delivery system is measured against objective standards and criteria that promote the mission and embody the values of the system. The system and its component programs and initiatives must be assessed for relevance and effectiveness in addressing client and client community needs, adherence to relevant national and statewide standards, and the legitimate expectations of planners and funders.

**Location and Responsibility:** The ATJ Board is responsible for overall delivery system accountability. This includes establishing and evaluating the performance and effectiveness of the civil legal aid delivery system against a relevant set of standards and criteria including, but not limited to, the expectations outlined in this revised State Plan. Each of the three principal funders of civil legal aid (the federal Legal Services Corporation, the Legal Foundation of Washington and the Office of Civil Legal Aid) is responsible for evaluating the performance of their respective grantees. Currently there is no system for the coordinated assessment of program performance in relation to the State Plan and these other standards.

**Plan for Implementation:** The ATJ Board will establish a standing committee on Performance Assessment and Accountability. This committee will (a) evaluate and



make recommendations for changes to the ATJ Board's Program Performance Accountability Standards, and (b) develop a protocol for coordinated peer assessment of Alliance member program performance against the expectations of the State Plan and relevant state and national standards.

### **C. Advocacy Coordination**

**Description of Function:** This is the strategic application of scarce resources to address priority areas of client representation, limit unnecessary duplication of services and maximize effective means and strategies to address client needs. Advocacy coordination is carried out on a local, regional, statewide and national basis.

**Location and Responsibility:** Because of their size, level of staff expertise, location and substantive areas of client focus, Northwest Justice Project and Columbia Legal Services currently carry the primary advocacy coordination responsibilities within the state. NJP has three full time attorneys dedicated to statewide advocacy coordination and support. The NJP advocacy coordinators staff most of the statewide substantive advocacy task forces. Other programs and institutions (e.g., King County Bar Volunteer Lawyer Program, Northwest Immigrant Rights Project and other specialized providers), help provide advocacy coordination and support in areas of more limited substantive or regional focus.

**Plan for Implementation:** The Northwest Justice Project will take the lead in developing a standing Alliance-wide client advocacy coordinating group. The work group will include representatives from all segments of the Alliance and should, on an ongoing basis, work to identify the mechanisms and procedures needed to ensure major substantive issues and priority client needs will be addressed deliberately, consistently, efficiently and effectively. The advocacy coordinating group will:

- monitor and develop strategies to address new and emerging areas of client need;
- identify and develop strategies to address unique issues (access and substantive) experienced by discrete client communities;
- promote strategic deployment of resources (Alliance member program and private sector) to address client needs;
- CLS will take the lead on coordination of client representation activities that cannot be supported by some funding sources; and
- other legal aid providers will continue to be involved in coordination related to their work.<sup>56</sup> The Northwest Immigrant Rights Project will join NJP and CLS in coordinating and providing support for advocacy related to the needs of immigrants and refugees.

### **D. Resource Development**

**Description of Function:** Building and maintaining a sufficient and stable base of public and private financial support for the Alliance.

**Location and Responsibility:** Most state and federal public resource development efforts are undertaken by the Equal Justice Coalition (EJC) in cooperation with and assistance of Alliance members and supporters. These include efforts to protect and expand federal funding from the Legal Services Corporation (LSC) and state funds for civil legal aid. Individual legal aid programs participate in educating state and federal legislators about the need for civil legal aid funding in ways that support the unified efforts of the EJC. Alliance members are expected to coordinate with the EJC on their

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<sup>56</sup> These providers include but are not limited to local and statewide specialty providers and bar associations such as King County that provide significant direct client representation.



legislative and public education work regarding legal aid funding. There is a growing recognition of the benefits resulting from coordination of efforts to secure state and federal special purpose funding requests, such as the Violence Against Women Act (VAWA), Fair Housing, etc. City and county public resource development efforts are carried out by Alliance members and supporters with the assistance of the EJC where requested and when possible.

The ATJ Board undertook a collaborative and inclusive process to address duplicative fundraising practices which undermined the Alliance's ability to raise private funds. As a result of this process, the ATJ Board authorized creation of the Campaign for Equal Justice, a unified, statewide, annual private fundraising drive that is implemented by LAW (Legal Aid for Washington) Fund, under the direction of the Statewide Campaign for Equal Justice Committee. The Campaign operates in all 39 counties. Alliance members are responsible for cooperating with the Campaign, as provided in the Legal Foundation of Washington's grant agreements with individual programs.

The Endowment for Equal Justice is co-located with LAW Fund and is a sister organization. The purpose of the endowment is to create a permanent revenue stream to stabilize the funding base for Alliance members.

The Legal Foundation is the steward of the Campaign for Equal Justice receipts, interest on lawyer trust accounts (IOLTA), class action residual funds generated through CR 23(f) and other funds which are distributed consistent with the State Plan. The Campaign and the EJC are co-located at the Legal Foundation to maximize collaboration.

The Access to Justice Board affirmatively supports the notion that Alliance members must participate in and support the Campaign for Equal Justice and the Equal Justice Coalition as a condition of being a recipient of those resources.

### **Plan for Implementation**

- The Equal Justice Coalition will continue to serve as the principal voice of the Alliance on matters relating to federal and state funding. Alliance members will participate in and support these efforts as requested. Support of, and coordination with, the EJC's efforts should continue to be an expressed Legal Foundation grant condition.
- Private resource development efforts by individual programs must be carried out in a manner that is both cooperative and consistent with the Campaign for Equal Justice. To ensure accountability, the Legal Foundation will continue to require such cooperation.
- The recent statewide resource development successes must be sustained and expanded into new areas such as foundations, corporate donors, major gifts and appropriate special purpose government grant opportunities.
- The Legal Foundation shall carry out its resource allocation functions consistent with the State Plan.

### **E. Professional Development and Training**

**Description of Function:** Central to a strong civil legal aid delivery system are Alliance members and supporters capable of successfully addressing the full spectrum of needs of a diverse client community. Professional development and training are the means to achieving these competencies, which include:

1. substantive expertise;
2. advocacy skills;

3. capacity to be aware of and deliver services that are culturally and linguistically relevant to diverse client communities;
4. individual, organizational and statewide leadership development; and
5. capacity to train others

**Location and responsibility:** There is no single location or established statewide infrastructure to systematically identify training needs or develop an ongoing training program to meet the substantive, skills and competency training needs of Alliance member program staff and interested Alliance supporters (e.g., pro bono lawyers, Legal Foundation of Washington, ATJ Board, Office of Civil Legal Aid, LAW Fund). At the national level, organizations such as the National Legal Aid and Defender Association (NLADA), Management Information Exchange (MIE) and Legal Aid University (LAU) have developed training programs, curricula and delivery models that help address some of the Alliance's training needs. At the statewide level, there is a bi-annual statewide training session for all Alliance program members and the ATJ Board hosts an annual ATJ Conference which includes a range of sessions relating to substantive legal issues affecting low income clients, important advocacy skills, leadership development and, in recent years, training on inclusion, diversity and multi-cultural competence. The Northwest Justice Project, Columbia Legal Services and other Alliance member programs host an annual new advocate training and targeted skills trainings. Alliance member programs have collaborated on trainings with other entities that address the civil legal needs of low income people such as the Washington State Human Rights Commission. Pro bono programs regularly provide training seminars and training videotapes for volunteer attorneys. The ATJ Board has hosted leadership training for members of the statewide Leadership Group (which includes Alliance members and supporters).

#### **Plan for Implementation**

- NJP will be responsible for forming, in cooperation with other Alliance members, an inter-program training committee. The training committee will regularly evaluate substantive and advocacy skills training needs and adopt a statewide training plan.
- The ATJ Board will be responsible for coordinating ongoing individual, organizational and statewide leadership development.
- Alliance members and funders will dedicate sufficient resources to underwrite the statewide training plan developed by the statewide training committee.

#### **F. Pro Bono Support**

Pro bono support is an essential component of the statewide support system. See Section V.B. for a full discussion.

#### **G. Technology**

**Description of Function:** Technology is software, hardware, infrastructure and related support that enables Alliance members to transmit appropriate levels of information, facilitate communication and assure efficient internal operations to provide quality assistance to clients in a manner that provides a basis for accountability.

**Location and Responsibility:** Currently, the Northwest Justice Project houses and maintains CLEAR and the Washington Law Help and Advocate Resource Center websites. The ATJ Board is responsible for implementing the Technology Plan adopted in January 2005. Alliance supporters are working on securing funding for statewide case management system.



A major question for Alliance members is where other technology support should be sited, whether it should be funded on a statewide basis, and if yes, how it should be funded.

#### **Plan for Implementation:**

- The Northwest Justice Project, the Pro Bono Support Coordinator and the ATJ Board will coordinate the development of a universal legal services case management system, as mandated by the ATJ Technology Plan, which will be completed and implemented as soon as possible. OCLA and LFW will work with these and other Alliance Members to develop adequate funding for this effort.
- The ATJ Board will continue to implement the Technology Plan.
- All technology initiatives will be developed and implemented consistent with the Washington State Supreme Court's Access to Justice Technology Principles.

#### **H. Building Support for Equal Justice**

**Description of Function:** A strategic, planned and sustained effort to build and maintain understanding and support for the work and vision of the Alliance between and among Alliance members, supporters and the public is critical. The primary components of such an effort are an external communications plan; a plan and strategy to build relationships necessary to carry out the external communications plan; the ability to internally communicate all of this to Alliance members and supporters in ways that promote consistency of communications and messages relating to the Alliance; and a system for providing ongoing support and assistance for Alliance member programs.

**Location and Responsibility:** LFW will coordinate this function. All Alliance members and many Alliance supporters carry out equal justice support efforts.

**Plan for Implementation:** The ATJ Communications Plan must be implemented. Professional assistance is needed to assist with statewide communications efforts. The Legal Foundation will continue to work closely with the Equal Justice Coalition, LAW Fund, the Washington State Bar Association and the ATJ Board to determine appropriate funding, hosting and management of the communications function. Public communications by all Alliance members and supporters should be consistent with the Communications Plan.

### **VII. IMPLEMENTATION AND OVERSIGHT**

#### **A. Overview**

The Access to Justice Board bears primary responsibility for overseeing implementation of the changes to the civil legal aid delivery system as outlined in the State Plan. The Board shall dedicate staff and resources to provide support and assistance for implementation.

#### **B. Plan for Implementation**

##### **1. Regional Planning**

All Alliance members in a given region will be responsible for developing regional plans which address the benchmarks outlined in the State Plan for minimum client service delivery. Alliance members are expected to engage supporters and other justice system partners in the planning process. The ATJ Board will provide staff and tools to assist Alliance members with regional planning efforts.

##### **2. State Plan Oversight Committee (SPOC)**

The ATJ Board will establish a State Plan Oversight Committee (SPOC) to oversee and provide technical support for implementation of the revised State Plan and to monitor changes in the civil equal justice system that may require new or additional planning focus. SPOC will be a standing committee of the ATJ Board and will be comprised of representatives from Alliance members and supporters. The chair will be appointed by the ATJ Board.

This revised State Plan directs that planning and implementation begin on the regional level. The ATJ Board recognizes that the State Plan's structural recommendations are significant and will require a thoughtful approach that respects local and regional needs while also providing guidance, coordination and technical support at a statewide level. The State Plan does not suggest one single approach or a set of approaches that will be appropriate for all regions; nor does it propose a one-size-fits-all approach to the implementation of the structural recommendations, especially those pertaining to rural delivery and pro bono administration.

SPOC and available staff will provide technical support as requested by each region. This could include: convening or facilitating regional meetings of Alliance members and supporters; meeting with boards of directors and local bar associations; or providing specific technical assistance in the planning and configuration of services to implement the State Plan and any regional delivery plan.

SPOC will ensure that the state support functions identified in the revised State Plan are implemented. SPOC also will coordinate and oversee continuing state planning and implementation consistent with this State Plan, the Hallmarks, Principles of State Planning and other guidelines. It will address topics which this State Plan has not been able to address, such as evaluation of the current approach to special population client service delivery, collaboration between law schools and other providers, client and community outreach and education on substantive legal issues and improving collaboration with other entities providing related services to clients.

### **3. Timelines for Implementation of the Revised State Plan**

**Immediately:** The ATJ Board will establish a State Plan Oversight Committee to facilitate regional planning and continue state planning in areas not addressed by this State Plan.

#### **Six months (December 31, 2006):**

1. King County providers shall develop a proposal for centralized intake.
2. Regional planners will complete their assessments of planning needs for each region.
3. Those responsible for statewide support functions will complete implementation plans.

**One year (June 30, 2007):** Each region will complete its regional plan.

**Three years:** The State Plan will be implemented.

### **4. Resources Needed for Implementation**

The ATJ Board will provide full-time staffing for the implementation of the State Plan and continuing support to the SPOC. For at least the first year, the ATJ Board will seek funding support from the Supreme Court to engage contract staff for on-site facilitation and technical support for regional planning. The ATJ Board will also seek continuing support for GIS mapping support from CommenSpace so that regions will have access to expanded mapping tools for regional planning.



## VIII. CONCLUSION

Following are lyrics from the Wizard of Lawz, the first skit to be produced for the annual Washington State Access to Justice Conferences (from "The Wizard of Oz"):

### ***We're Off to See the Wizard***

*We're off in search of justice  
Justice for Washington state  
We know that access isn't great  
But hey, it's never too late*

*For justice to materialize  
We're all gonna have to visualize  
We'll have to use our courage, hearts and brains  
We're just gonna have to cooperate*

*We're off to see the wizard  
The wonderful wizard of lawz.*

This revised State Plan calls upon all Alliance members and supporters to join together in new and innovative ways to realize the vision that motivates us to do the work we do every day. This vision requires the courage, heart and brain of every one of us to realize equal justice for the low income people that so desperately need civil legal aid. We're off to see the wizard...and we will find justice for Washington state.

## IX. LIST OF APPENDICES

- A. Hallmarks of an Effective Civil Legal Services System**
- B. Principles for State Planning**
- C. Structural Changes since the 1999 State Plan**
- D. State Plan Review Committee Members and Contributors**
- E. Washington State Civil Legal Aid and Organizational Relationships**
- F. Lists of Demographic and Resource Categories that are Mapped**
- G. Potential Pro Bono Contributions by County**
- H. Proposed Client Service Regions**
- I. Regional Planning: Process, Questions and Answers**
- J. Definitions**





**PLAN FOR THE DELIVERY OF CIVIL LEGAL AID TO LOW INCOME PEOPLE IN  
WASHINGTON STATE  
(Revised 2006)**

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## Appendix A Hallmarks of an Effective Civil Legal Aid Delivery System





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## Hallmarks of an Effective Statewide Civil Legal Services System

*Revised, adopted by the Washington State Access to Justice Board,  
February 20, 2004.*

### I. INTRODUCTION

The dictionary defines “justice” as fairness. The system for administration of our laws is called the justice system because the single most important principle upon which that system is premised is fairness. Our laws, however, are complicated. They are created by local, state, tribal and federal legislative and administrative bodies. They are interpreted and enforced by local, state, tribal and federal courts, administrative and other agencies. The volume and complexity of the laws and the procedures for their administration have made it increasingly difficult to effectively utilize the justice system without the help of a lawyer. That means for those who cannot afford a lawyer, access to the system does not necessarily mean access to justice.

Publicly funded legal services, or “legal aid,” evolved in an effort to insure that poverty was not an insurmountable barrier to justice. Financial and political support for this effort has been inconsistent over the years. In 1994-95 that support sharply declined threatening significant reductions and restrictions on the availability of legal services for the low income. This led to a comprehensive review of Washington’s statewide legal service delivery system and development of a plan to respond to this threat.

This review and planning process is an ongoing project. It has been facilitated and guided by the Access to Justice Board (ATJ Board), a coordinating and oversight body created by Order of the Supreme Court. The ATJ Board’s first significant project was the development in 1995 of its Plan for the Delivery of Civil Legal Services to Low Income Persons in Washington State (State Plan). The State Plan included 18 recommendations for reconfiguring and supporting Washington’s delivery system so as to preserve access for low-income clients to a full range of advocacy and services. In mid-1998, the ATJ Board, through its State Plan Evaluation Committee, began a process to determine how well the State Plan was working and to consider which aspects, if any, should be rethought. The Board presented its draft Revised State Plan and recommendations at the June 25-27, 1999 Access to Justice Conference in Wenatchee, and later adopted its final Revised Plan for Delivery of Civil Legal Services to Low Income People in Washington State (Revised State Plan) at its annual retreat on September 16, 1999.

In undertaking its planning responsibilities, the ATJ Board first sought to articulate a mission and vision of statewide equal justice. Based on this mission, it then attempted to identify those values that flow from the mission statement and which, in turn, lead to the identification of the components and capacities that seem necessary for the system to be effective.

The Hallmarks of an Effective Statewide Civil Legal Services Delivery System (Hallmarks), written in 1995, described the mission, values, components and capacities upon which the current statewide legal services delivery system is based. The Hallmarks have served the ATJ Network well and continue to guide state planning and ongoing delivery activities. However, many have commented over time that the hallmarks document is written in terms that are not clear to all. What follows is an effort to reduce the hallmarks to a more clear and concise statement of the ideals upon which the legal services delivery system is based and from which it continues to evolve. It is also an effort to generate statewide discussion about their continued relevance and assure that there is genuine consensus across the system and the state.

## **II. MISSION**

Poverty should not be an impediment to Justice. The mission of the statewide legal services delivery system is to offer low income individuals and groups both direct representation and other legal assistance that enables them to:

- Protect and enforce their rights;
- Use the civil justice system to oppose laws, regulations, policies and practices that operate unfairly against them;
- Develop and implement laws, regulations, policies and practices that improve their quality of life; and
- Effectively advocate their legal rights and interests on their own behalf.

## **III. VALUES AND CAPACITIES**

The following pages set out 15 values that are at the core of the Washington civil legal services system and to which the structure and operation of the system must remain loyal to assure equal justice for Washington's poor and highly vulnerable. Following each of these values is a list of components and capacities necessary to make sure the legal services delivery system can faithfully serve each of these values.

1. The system's effectiveness is dependent upon its commitment to assessing and responding to the most critical needs of clients as identified by low income clients and potential clients.
  - Regular assessment of client legal needs based on input from clients and potential clients, and those to whom clients go to talk about their needs.
  - A priority setting process in which client identified needs are given the greatest weight.
  - Legal resources are reconfigured and reallocated to address changed client priorities.
  - Training, coordination and support of legal advocates appropriate to existing and changing client needs.
2. Those in poverty have an equal right to justice regardless of who they are, where they live, or the language they speak.
  - Equitable distribution of resources around the state that assures all geographic regions have access to the most necessary services.
  - Language and cultural competency to provide meaningful access to all client groups.
3. The justice system must be barrier free.
  - A work plan that addresses inclusion, diversity and multicultural competency issues in the structure, leadership, relationship building and resource development of the legal services delivery system.
  - Sensitivity and competence to identify and remove barriers to the legal services delivery system that may result from clients' education, race, national origin, tribal, ethnicity, cultural heritage, sex, age, religious preference, marital status, sexual orientation, sensory, mental and physical abilities, veteran status and other characteristics that impose barriers to the services and benefits of the legal services delivery system.
  - Sensitivity and competence to help clients and client groups identify and address barriers in the justice system that may result from clients' education, race, national origin, tribal, ethnicity, cultural heritage, sex, age, religious preference, marital status, sexual orientation, sensory, mental and physical abilities, veteran status and other characteristics that impose barriers to the fair creation, implementation, administration or enforcement of our system of laws.
4. A legal services delivery system is effective only to the degree that positive results are achieved for clients, particularly in areas of high priority client need.
  - Reports of client outcomes include information solicited from clients.
  - Efforts are made to obtain longer term follow up information from clients after case closure.



- Report standards are keyed to client needs, adjusted to reflect changing client priorities, and are shared throughout the various parts of the system.
  - An assessment process that recognizes that positive results include each client's opportunity to have his or her claims considered fully and fairly as well as "wins" where clients obtain the relief they sought.
5. The right to justice must remain constant regardless of changing social, political, economic or other conditions in the country, state and communities where low income people live.

The system is vigilant for, and aware of, changes in the political and social environment and their impact on the lives and interests of individual and group clients.

- Client populations with distinct needs (e.g. migrant farm workers, institutionalized persons, Native Americans, senior citizens, refugees, etc.) are served irrespective of changes in political and social environments.
  - Regardless of political or social pressures, client advocacy is consistent with RPCs, statutes and court rules including the capacity to pursue all appropriate forms of relief in all appropriate forums.
  - Restricted and unrestricted funds are allocated with the goal of providing the full range of services to all groups and individuals
6. Resources must first be committed to those efforts and activities that are most likely to result in longest term benefits in areas of the most pressing client needs.
- System resources are deployed to address high priority areas of representation.
  - Regional planning and coordination that avoids duplication and maximizes efficient use of system resources.
  - Regional and statewide assessment of effectiveness of means and strategies used to address priority client needs.
7. Individual and group advocacy are both effective and necessary tools for addressing the legal interests of low income residents throughout the state.
- Legal resources set up to efficiently assist individual clients.
  - Legal resources unrestricted in their ability to represent client groups, particularly where the relief sought has broader and/or more long-term benefit.
  - Recognition of conflicts that may exist between the values and goals of individual clients and client groups with whom they are identified.
8. The most effective resolution of a "legal" problem may require the use of non-legal resources.
- Expertise in a full range of advocacy systems (courts, administrative hearings, alternative dispute resolution, etc.).
  - Cooperative relationships with other advocacy resources, particularly those with experience and expertise in dispute resolution in non-legal disciplines.
  - Support, assistance, coordination and training for community organizations involved in providing legal, educational, health or human services or groups that provide service or advocacy for low income people.
9. Low income people have a greater ability to control their own lives when they have accurate information and the skill, ability and opportunity to use that information to advocate on their own behalf.
- Programs and services that provide information, advice and skills training that help clients effectively advocate on their own behalf including self-help programs, community legal education, client and community outreach, hotlines, ADR programs, internet informational programs.
  - Court and community education that promotes the opportunities for self-advocacy.
  - Community based computer and internet access.
  - Community based clinics.

10. Access to justice means access to and assistance in the places where decisions are made that affect peoples lives including courts and legislative and administrative bodies.
  - Legal resources unrestricted in their ability to advocate on behalf of low income people before legislative and administrative bodies.
  - The expertise and relationships to make legislative and administrative advocacy effective.
  - Capacity and competency to address client needs in quasi and non-judicial settings.
11. Recruitment, coordination and thoughtful use of the components of a legal services delivery system are essential to the system's success.
  - Recognition by the various components of the legal services delivery system that to make the system truly "client-centered" individual and group clients must be seen as a critical component of the system to be utilized in the advocacy process and not merely the beneficiary of that process.
  - Maintenance of programs in as many varied configurations as are necessary to insure the low income population has a meaningful level of access to the broadest possible range of representation and other assistance.
  - Collaborative relationships among staffed legal services programs; private attorneys; volunteer attorney programs; specialized advocacy programs; private and non-profit law firms; justice system workers; other professional disciplines; social service providers; client groups and individual clients themselves.
  - Communication, cooperation and coordination among these various components.
  - Access and effective use of technological resources on a system-wide basis.
12. An outstanding delivery system consciously strives to avoid duplication of capacities and administration.
  - Relatively uniform, highly accessible, user-friendly client intake, case evaluation and referral systems.
  - Organizational relationships and structures that take advantage of economies of scale and actively promote the effective use of existing and emerging technologies.
  - The effective use of existing and emerging technologies that reduce costs and provide better services.
  - Regular evaluation of system programs to insure highest level of effectiveness and efficiency.
13. The system must embrace and reflect appropriate professional ethical and performance standards in every aspect of its practice.
  - Ethical rules.
  - Program policies.
  - Performance expectations in ABA Standards for Providers of Civil Legal Services to the Poor.
  - ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means.
14. While taking into consideration the needs of the clients statewide, the system should identify and respond to unique issues and special needs of clients within individual regions, communities and Indian nations.
  - Regional planning and coordination.
  - Community outreach.
15. The system must be organized and operated to insure that accurate and complete information about what the system does and how its does it is available to all.
  - Comprehensive data collection across the system (consistent with client confidentiality requirements).
  - Compilation of data from all components (consistent with client confidentiality requirements).
  - Reporting of data in readable, user friendly form (consistent with client confidentiality requirements).



## Appendix B Principles for State Planning

PRINCIPLES FOR STATE PLANNING  
Access to Justice Board State Plan Review Committee  
November 26, 2003

The basic structure of the Alliance for Equal Justice must insure a presence around the state that:

- Is responsive to the diverse needs of urban & rural client communities;
- Operates to deter those who might otherwise engage in unlawful or unfair conduct at the expense of low income and vulnerable people;
- Is sufficient to maintain the relationships that are necessary to keep and increase understanding and support for the ATJ network; and
- Supports both individual and group representation.

The basic structure of the Alliance for Equal Justice must insure that, notwithstanding funding or substantive restrictions, there remains:

- The capacity to perform the most critical work in the places where decisions are made that affect peoples lives including courts and legislative, executive and administrative bodies; and
- The resources that insure socially, economically and politically disfavored groups can effectively utilize the justice system to protect and defend their most critical rights and interests.

The basic structure of the Alliance for Equal Justice must provide the information, tools and training that give low income and vulnerable people the opportunity to control their own lives by advocating for themselves.

The basic structure of the ATJ network must insure that the component parts of the network:

- Are organized to insure a high degree of communication and cooperation;
- Are utilized in a thoughtful, principled manner to minimize duplication and maximize efficiency and effectiveness;
- Are mutually adaptable to shifting political and social and economic dynamics; and
- Are cognizant of changing client needs and demographics.

The basic structure of the Alliance for Equal Justice must be sustainable in a form and manner of functioning that is consistent with the principles described above and still retain the capacity to pursue the funding and other resources necessary to insure that all who seek justice have the opportunity to get it.



## Appendix C Structural Changes since the 1999 State Plan

## Structural Changes since 1999 State Plan

- Expanding role and function of NJP (NJP becomes qualified legal aid provider contracting for state funding. In doing so, NJP assumes many roles and functions previously performed by CLS, including: state fiscal contracting agent (flowing state \$\$ to pro bono and specialty providers); expanded responsibility for statewide advocacy and support; expanded responsibility for technical assistance and support to Alliance members; principal underwriter of substantive advocacy training; funder of innovative projects; heightened involvement with EJC on matters relating to state funding).
- Redefining role and function of CLS (CLS assumes a much smaller, more limited focus in its statewide legal aid provider role; principal responsibility is to ensure access to civil justice for clients and low income communities that will not be effectively served by governmentally funded providers and to preserve equitable access for low income people to the full range of legal advocacy capacities envisioned by the Hallmarks; CLS also fills in training and technical assistance gaps unique to its mission).
- Memorandum of agreement between LFW and LAW Fund and subsequent administrative merger, which effectively created the potential for unifying statewide private resource development efforts. Under the protocol established under the Memorandum, LAW Fund money is now distributed to all Alliance members, not just the statewide staffed programs.
- Adoption of the Resource Development Plan and establishment of a statewide Campaign for Equal Justice as the umbrella for statewide private resource development for Alliance member programs in Washington State.
- Adoption of the Communications Committee Plan and establishment of the Alliance for Equal Justice. Beginning the process of creating affirmative expectations of Alliance members and building a culture of accountability within the Alliance.
- Emergence of the Equal Justice Coalition as a strong, credible voice to coordinate legal aid funding efforts with broader judicial branch funding initiatives, and educate elected officials about and promote expanded state and federal funding for civil legal aid. Hosting of the first Open House Project to build greater awareness of the local work of state-funded civil legal aid providers.
- Publication of the Civil Legal Needs Study, Quantification Analysis and Final Report of the Task Force on Civil Equal Justice Funding and the subsequent Creation of the Office of Civil Legal Aid as an independent agency in the judicial branch and a the Civil Legal Aid Oversight Committee to ensure effective oversight of the OCLA, monitor developments and make recommendations relating to state-appropriated legal aid funding.
- Creation of the Advocate Resource Center to support the client legal work of Alliance members, including participating pro bono attorneys.



- Establishment of Washingtonlawhelp.org and expansion of relevant self-help content hosted on the site.
- Growth and maturity of CLEAR as a principal client gateway into the civil legal aid system; demonstration of CLEAR's ability to provide geographically proportional client services; identification of obstacles for certain client groups and populations.
- Efforts (hit and miss) to define expectations relating to and more deliberately engage in regional planning and client service delivery coordination.
- Adoption of the ATJ Technology Principles.
- Creation of INS facility in Tacoma and the necessary opening of NWIRP office to serve the needs of detainees.
- Establishment of pro bono programs in Cowlitz, Island and Asotin counties; substantial and successful reorganizations of pro bono programs in Thurston, Okanogan, Yakima and Chelan-Douglas counties (others?); elimination of pro bono program in Grays Harbor County; establishment of co-locations arrangements between staffed and pro bono legal aid providers in Spokane, Yakima, Wenatchee, Tacoma, Everett and Olympia (others???) to provide more effective integration of client service delivery; shifting of the staffed DV representation ("Project Safer") from LAW Advocates to the Bellingham NJP office.
- Establishment of the Pro Bono Support Coordinator position to help provide ATJ values-driven technical support and assistance for volunteer attorney programs throughout the state; establishment of the Pro Bono Support Coordinating Board to oversee the work of the Pro Bono Support Coordinator.
- State funding nearly doubled over the last six years (from \$8.8 million per biennium to current level of \$15.8 million). FY 2005 elimination of VOCA grants for five civil legal aid programs that had been funded since about 1996.
- Establishment of the Leadership Group and training on/adoption of an ATJ values-driven leadership model to help program leaders at all level understand and embrace heightened expectations for statewide leadership and involvement.
- Conclusion of federal litigation in IOLTA case.
- Developing the 2000 census data analysis effort and translating it into staffing and delivery expectations through the Matrix Project.

## Appendix D Participants in the State Plan Review Process



## **State Plan Review Committee Members and Contributors**

### Steering Committee:

Christine Crowell, Chair, Access to Justice Board  
Tom Tremaine, Northwest Justice Project (Spokane)  
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Legal Foundation of Washington (pro bono focus group expenses)  
Washington State Bar Association (in-kind staffing, meeting space and other support)  
American Bar Association (pro bono focus group facilitator)

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*2-10-06 Draft:*

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Lori Isley (CLS – Yakima) (also 3-28)  
Larry Weiser (Gonzaga School of Law)  
Michelle Besso (NJP – Yakima)  
Paul Bastine (Spokane VLP Board member)  
Skagit County Bar Volunteer Lawyer Program  
Pro Bono Support Coordinating Board  
Equal Justice Coalition  
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*4-7-06 Draft:*

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LAW Advocates (Whatcom County)  
Robbie Scott (Columbia Legal Services – Wenatchee)  
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Northwest Justice Project  
Blue Mountain Community Action Council (three letters)  
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Those who Hosted Presentations by Members of the State Plan Review Committee:

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Civil Legal Aid Oversight Committee  
Skagit County Community Action Agency VLS Program  
Whatcom County (LAW Advocates)  
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South Central Washington Providers  
King County Regional Planning Committee  
Blue Mountain Action Council Volunteer Attorney Program  
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**Appendix E Washington State Civil Legal Aid and Organizational Relationships**



**WASHINGTON STATE CIVIL LEGAL AID  
ORGANIZATIONAL RELATIONSHIPS**

(May 2006)

**I. Policy Development and Oversight**

**Washington Supreme Court**

- Established and appoints Access to Justice Board members.
- Established Supreme Court Task Force on Civil Equal Justice Funding which was responsible for the 2003 Washington State Civil Legal Needs Study.
- Promoted establishment of Office of Civil Legal Aid as an independent judicial branch agency and appoints members of the OCLA Oversight Committee.
- Invests \$100,000 per year to support the Access to Justice Board.

**Access to Justice Board**

- Principal planning and oversight body for Washington State's Alliance for Equal Justice.
- Established vision and core values that govern civil legal aid system design and service delivery (Hallmarks).
- Adopts and oversees implementation of State Plan for the Delivery of Civil Legal Aid Services (establishes expectations for coordinated, integrated statewide civil legal aid delivery planning and corresponding public and private resource development and investment).
- Principal committees include:
  - **State Plan Review Committee** – Reviews and revises State Plan
  - **Equal Justice Coalition** – Educates policy makers and the public and promotes expanded investment of public resources (state and federal) for civil legal aid
  - **Technology** – Coordinates statewide legal aid technology initiatives and infrastructure, including coordination with Administrative Office of the Courts (AOC), Washington State Bar Association (WSBA) and other justice system partners
  - **Communications** – Establishes consistent communications strategies for internal and external legal aid system activities
  - **Impediments** – Identifies and develops policy initiatives to address barriers that low income and disabled individuals experience in securing access to the civil justice system
  - **ATJ Technology Principles Implementation Strategies Committee** – Committee dedicated to establishing protocols for implementing ATJ Technology Principles adopted by Supreme Court in December 2004

**Washington State Bar Association**

- Hosts and administers the Access to Justice Board.
- Maintains Pro Bono and Legal Aid Committee (PBLAC) which develops policy initiatives designed to expand opportunities for attorneys to provide pro bono representation.

- Co-developer of initiatives designed to address matters relating to the administration of justice.

## **II. Funders/Investors**

### **Federal Legal Services Corporation (LSC)**

- Federally established non-profit corporation that receives and distributes congressional appropriations to support civil legal aid programs in all 50 states.
- Funding governed by numerous regulations which limit the use of federal funds and other funds received by the LSC recipient for representation of certain classes of low income clients, on specific types of legal problems, in legislative and certain administrative forums, and employing certain legal strategies otherwise available to attorneys.
- In Washington State, LSC funds are granted to the Northwest Justice Project (NJP), a statewide legal aid provider with main offices in Seattle and field Offices in 10 locations throughout the state.
- Annual funding: About \$5.6 million.

### **State of Washington, Office of Civil Legal Aid**

- Independent judicial branch agency established by the Legislature in 2005 in response to recommendations from the Supreme Court’s Task Force on Civil Equal Justice Funding.
- Principal responsibilities Include: (1) administer and oversee the investment of state appropriated civil legal aid funding, (2) monitor the capacity of the civil legal aid system to address ongoing needs of low income residents, (3) through the Civil Legal Aid Oversight Committee make recommendations to the Supreme Court, Access to Justice Board and Legislature on matters relating to the provision of civil legal aid services, and (4) develop budget recommendations.
- State funding governed by provisions of RCW 2.53.030, which limits use to eleven (11) areas of legal problem, prohibits use for legislative or administrative representation and class actions, and prohibits use for representation of individuals not lawfully present in the United States.
- State funding contracted to a single “qualified legal aid program” – the Northwest Justice Project – which serves as fiscal and subcontracting agent for the statewide Alliance for Equal Justice. Through subcontracting, state appropriated funds are used to underwrite efforts of NJP, 24 county-based pro bono Programs and seven specialty legal aid providers that provide services authorized under RCW 2.53.030.
- Activities of Office of Civil Legal Aid overseen by bipartisan Civil Legal Aid Oversight Committee established by the 2005 Legislature.
- Annual funding from legislative appropriation: About \$8.3 million.

### **Legal Foundation of Washington (LFW)**

- Established by Washington Supreme Court in 1984 to collect, administer and oversee use of interest on lawyers’ trust account (IOLTA) funds.



- Serves as administrative host to LAW Fund/Campaign for Equal Justice, and includes funding raised through the annual campaign in its annual grant making cycle.
- Conducts annual grant application process and executes grants with more than 30 organizations that make up the Alliance for Equal Justice. Consistent with ATJ Board Hallmarks and State Plan, strategically invests funding to ensure that all clients and client groups have equitable access and a meaningful opportunity to secure appropriate legal assistance on matters of legal significance to them. In this capacity, LFW Serves as principal funder of Columbia Legal Services (CLS) and Northwest Immigrant Rights Project (NWIRP).
- Host and principal underwriter of ATJ Board’s Equal Justice Coalition (EJC), which educates policy makers and the public on the value of civil legal aid services, defends the integrity of the system, and promotes expanded public funding for the Alliance.
- Annual funding (IOLTA/LAW Fund): About \$5.3 million

**III. Providers – The Alliance for Equal Justice (Washington State’s Network of Organizations Providing Legal Aid to Those With Nowhere Else to Turn)**

**Statewide Staffed Legal Aid Program**

- Northwest Justice Project is the state’s principal staffed civil legal aid program. NJP operates the statewide toll-free intake system (CLEAR), maintains a statewide self-help website ([www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)), and ten (10) field offices located in Bellingham, Everett, Seattle, Tacoma, Olympia, Vancouver, Yakima, Wenatchee, Spokane and Walla Walla. NJP maintains satellite offices in Bremerton, Pasco and Omak and serves clients in other parts of the state through fee-for-service contracts with local private attorneys. NJP also serves as the fiscal contracting agent for state funds, which are used to help underwrite the activities of 24 pro bono and seven specialty legal services providers. Principal funding sources: LSC, OCLA.

**Specialty Legal Aid Providers<sup>1</sup>**

- Northwest Immigrants Rights Project (NWIRP) addresses the civil legal needs of low income non-citizens on immigration-related matters. NWIRP maintains offices in Seattle and Granger. Principal funding sources: LFW, private funds, small grants.
- Columbia Legal Services (CLS) is a statewide legal aid program that provides a full range of services to highly vulnerable low-income clients and client groups who face unique barriers or are otherwise unable to secure the type or quality of legal assistance that they need to effectively assert, promote or defend important civil legal rights. CLS offers legal aid services to foster children, child care workers, handlers of dangerous pesticides, seniors and disabled, victims of deficient public defense systems, farmworkers harmed by abuses in H-2A guestworker program and many others in matters involving health, food stamps,

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<sup>1</sup> Receiving funds from the Legal Foundation of Washington and/or the Office of Civil Legal Aid.

adequate fixed and mobile home housing, consumer abuses and domestic violence. CLS maintains five (5) offices in Seattle, Olympia, Wenatchee, Yakima and Kennewick. Principal funding sources: LFW, private funds, small grants.

- TeamChild is a program that provides representation to youth involved in the juvenile justice system on related civil matters. TeamChild has offices in Spokane, Tacoma, Yakima, Everett and Seattle. Principal funding sources: State appropriations, LFW, OCLA, small grants.
- Unemployment Law Project is a statewide organization that provides assistance and representation to low income people on matters relating to eligibility for unemployment compensation. ULP is located in Seattle. Principal funding sources: private grants, LFW, OCLA, client fees.
- Legal Action Center provides representation on housing and related matters to low income clients in King County. Principal funding sources: Diocese of Seattle, LFW, OCLA.
- Fremont Public Association (FPA) Family Assistance Program is located in Seattle and provides legal assistance to residents of King County on matters relating to eligibility for governmental assistance. Principal funding sources: FPA, LFW, OCLA.
- University Legal Assistance is the clinical law program at Gonzaga University. It provides family law, consumer, elder law and other services to low income clients in Spokane County. Principal funding sources: Gonzaga School of Law, LFW, OCLA.
- Northwest Health Law Advocates is a small statewide organization that provides legal representation on matters relating to the development and administration of state and private health care programs. Principal funding sources: private grants and contracts.

#### **Volunteer Attorney (Pro Bono) Programs**

- Twenty-four (24) county-based pro bono programs located throughout the state participate as members of the Alliance. These programs recruit private attorneys to participate in a wide range of civil legal aid services from brief service and advice clinics to extended representation on complex civil legal matters. Principal sources of funding: LFW, OCLA, local bar associations, community services programs, small grants, private donations. These programs include:
  - Asotin County Legal Services
  - Benton-Franklin Legal Aid Society
  - Blue Mountain Action Council Volunteer Attorney Program
  - Chelan-Douglas County Volunteer Attorney Services
  - Clallam County Pro Bono Lawyers
  - Clark County Volunteer Lawyers Program
  - Cowlitz-Wahkiakum County Bar Association Legal Aid Program
  - Eastside Legal Assistance Program
  - King County Bar Foundation Community Services
  - Kitsap Legal Services
  - Kittitas County Volunteer Legal Services
  - LAW Advocates



- Lewis County Bar Legal Aid
- North Columbia Community Action Council
- Northeast Washington Legal Aid Program
- Okanogan County Legal Services Program
- Skagit County Community Action Agency VLP
- Snohomish County Legal Services
- Spokane County Bar VLP
- Tacoma-Pierce County Volunteer Legal Services Program
- Thurston County Volunteer Legal Services Foundation
- Volunteer Lawyer Program of Island County
- Whitman County Legal Service Community Action Center
- Yakima County Volunteer Attorney Services

## Appendix F Lists of Client and Resource Categories that are Mapped



## Demographic and Resource Data that has been Mapped

### Demographic Data:

1. Poverty population by # of poor people
2. Percentage of poverty population of overall population
3. Number of people by race
4. Percentage of poverty population by race
5. Number of people - Hispanic/Non-Hispanic
6. Percentage of poverty population – Hispanic/Non-Hispanic
7. Lack of phone service - #, and percentage of population
8. Number of families speaking a language other than English at home
9. Percentage of families speaking a language other than English at home
10. Percentage of poverty population speaking a language other than English at home
11. Percentage of poverty population and top five languages spoken at home
12. Percentage of poverty population that does not speak English well or at all
13. Number of farm workers
14. Number of people in institutions
15. Number of people 60 years of age and older
16. Percentage of population people 60 years of age and older
17. Percentage of people 60 years of age and older in poverty
18. Number of people 18 years of age or younger
19. Percentage of population 18 years of age or younger
20. Percentage of people 18 years of age or younger in poverty

### Resource Data:

1. General Legal Aid Providers:
  - Northwest Justice Project
  - Columbia Legal Services
  - All Volunteer Lawyer Programs
2. Specialty Legal Aid Providers:
  - Northwest Women's Law Center
  - Northwest Health Law Advocates
  - Northwest Immigrant Rights Project
  - Unemployment Law Project
  - Fremont Public Association
  - Legal Action Center
  - Center for Justice
  - Military Legal Services
  - Team Child
3. University Law Clinics
  - Gonzaga
  - University of Washington
  - Seattle University School of Law
4. Courthouse Assistance:
  - County Clerks
  - Family Law Facilitators
  - Advocates for Victims of Domestic Violence
  - Guardianship/probate Facilitators
  - Law Libraries
5. Government Legal Services
  - Department of Child Support
  - Prosecutor's Family Support Units
  - Human Rights Agencies
  - Crime Victim Services
6. All Tribal Courts
7. Mediation Services

## Appendix G Pro Bono Capacity by County



## Potential Pro Bono Contribution: All Counties

County	Poverty Population	Licensed Attorneys	Atty:Poor Person	Expected PB Contribution @ 20% * 30 hrs./atty	Potential FTE Staff Atty	Reported Hours (based on 1st half 2005) (annualized )	Effective FTE Contribution (Annualized)
King	186,165	12,613	15	75,678	50.5	27,190	18.1
Snohomish	54,306	991	55	5,946	4.0	2,988	2.0
Pierce	94,035	1693	56	10,158	6.8	8,100	5.4
Clark	42,480	566	75	3,396	2.3	670	0.4
Spokane	67,302	1508	45	9,048	6.0	3,182	2.1
Thurston-Mason	31,534	1179	27	7,074	4.7	1,550	1.0
Kitsap	26,207	544	48	3,264	2.2	1,674	1.1
Benton, Franklin	33,506	300	112	1,800	1.2	914	0.6
Whatcom	28,896	384	75	2,304	1.5	1,800	1.2
Yakima	58,177	371	157	2,226	1.5	596	0.4
Skagit	15,586	196	80	1,176	0.8	1,052	0.7
Grant	17,893	100	179	600	0.4		0.0
Chelan, Douglas	18,033	197	92	1,182	0.8	620	0.4
Island	7,027	82	86	492	0.3	560	0.4
Cowlitz, Wahkiakum	16,990	122	139	732	0.5	150	0.1
Lewis	12,918	86	150	516	0.3	340	0.2
Stevens, Ferry, Pend Oreille	12,889	46	280	276	0.2	514	0.3
Clallam	10,446	113	92	678	0.5	1,320	0.9
Walla Walla	9,983	66	151	396	0.3	294	0.2
Kittitas	7,515	45	167	270	0.2	1,060	0.7
Okanogan	10,626	60	177	360	0.2	260	0.2
Jefferson	3,975	54	74	324	0.2		0.0
San Juan	1,753	43	41	258	0.2		0.0
Grays Harbor	13,817	93	149	558	0.4		0.0
Asotin	4,102	17	241	102	0.1		0.0
Adams	4,367	11	397	66	0.0		0.0
Klickitat	4,230	24	176	144	0.1		0.0
Pacific	4,268	14	305	84	0.1		0.0
Whitman	10,678	71	150	426	0.3	104	0.1
Skamania	1,587	10	159	60	0.0		0.0
Lincoln	1,806	12	151	72	0.0		0.0
Garfield	459	4	115	24	0.0		0.0
Columbia	753	9	84	54	0.0		0.0
<b>Total</b>	<b>814,309</b>	<b>21,624</b>	<b>4,297</b>	<b>129,744</b>	<b>86.5</b>		

## Appendix H Proposed Client Service Regions

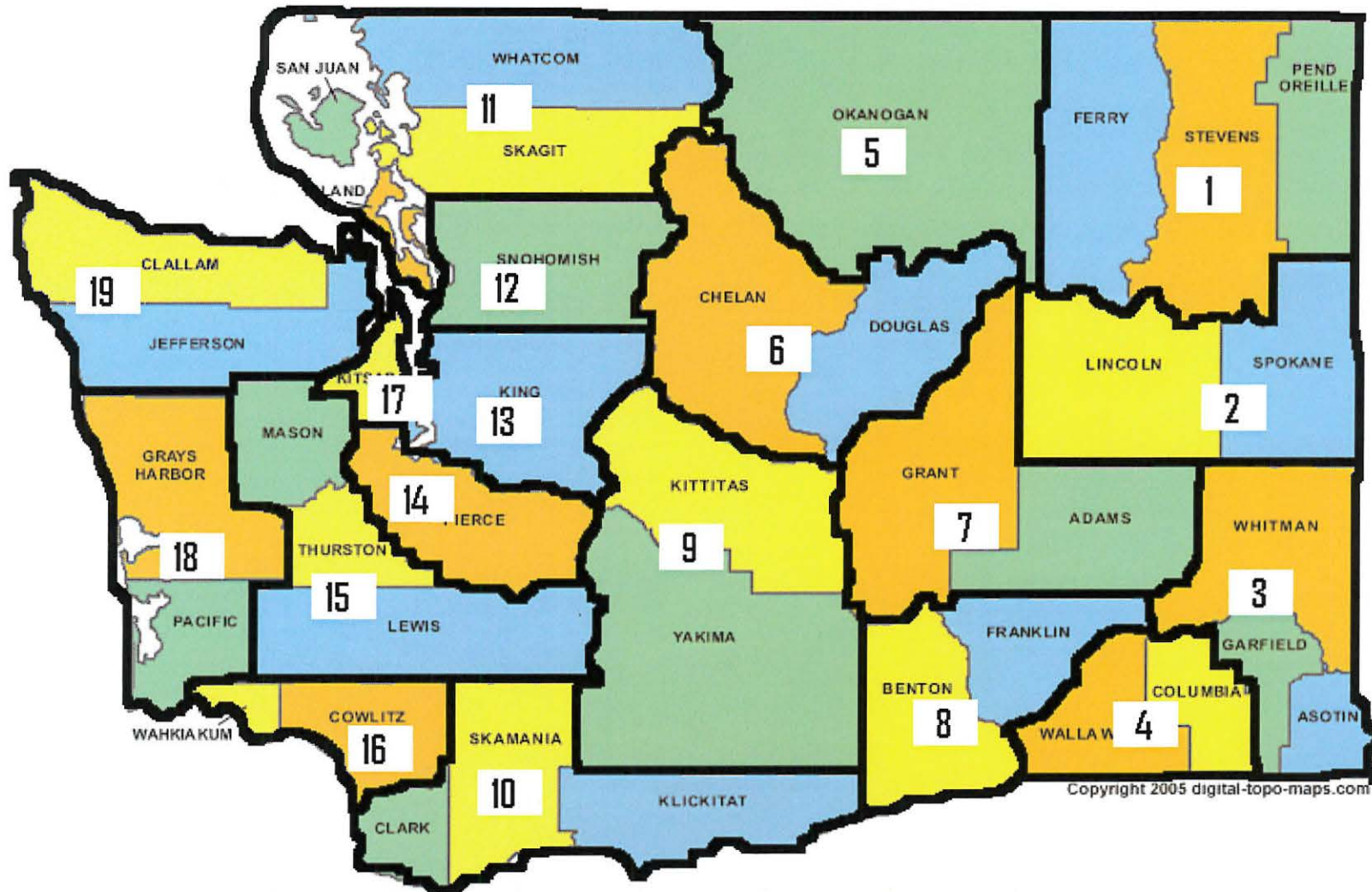
T-1

Current Regions	Regional Identifier (1-18)	Total	
Sum of Total FTE			
Central	1	8.661886791	Benton/Franklin/Walla
	9	5.216883445	Walla/Columbia
	10	2.485817952	Grant/Adams
	11	3.532585517	Okanogan
	13	11.4132081	Chelan/Douglas
Central Total		31.31038181	Yakima/Kittitas
	4	16.11048756	Spokane/Lincoln
	5	2.756295678	Ferry/Stevens/Pend Oreille
	6	0.816960501	Asotin/Garfield/ Whitman
East Total		19.72030538	
Metro	14	45.32320173	King
	15	21.4936316	Pierce
	16	5.284180876	Kitsap
Metro Total		72.10101421	
Northwest	7	9.79692885	Whatcom/Skagit/Island/ San Juan
	8	12.88385757	Snohomish
	17	1.774628979	Clallam/Jefferson
Northwest Total		24.4554154	
Southwest	2	6.253765946	Clark/Skamania/Klickitat
	3	2.071297672	Cowlitz/Pacific/Wahkiakum
	12	5.741999547	Thurston/Mason/ Lewis
	18	2.437366654	Grays Harbor / Pacific
Southwest Total		16.50442982	
Grand Total		164.0915466	

Poverty Population Includes Alice Larson Estimated Uncounted						
Current Allocated Region FTE	Percentage of Region FTE	Region Poverty Population w Larson	Percentage of Region Poverty Population w Larson	Difference	Equitable FTE Allocation (125% Census Poverty Pop w/ Larson)	
8.7	28%	78,967	27%	1%	8.4	
5.2	17%	46,936	16%	1%	5.0	
2.5	8%	18,221	6%	2%	1.9	
3.5	11%	37,886	13%	-2%	4.0	
11.4	36%	112,972	38%	-2%	12.0	
31.3	100%	294,980	100%	0%	31.3	
16.1	82%	69,533	71%	11%	14.0	
2.8	14%	13,088	13%	1%	2.6	
0.8	4%	15,637	16%	-12%	3.1	
19.7	100%	98,258	100%	0%	19.7	
45.3	63%	187,247	61%	2%	43.7	
21.5	30%	95,297	31%	-1%	22.2	
5.3	7%	26,389	9%	-1%	6.2	
72.1	100%	308,932	100%	0%	72.1	
9.8	40%	59,192	46%	-6%	11.2	
12.9	53%	55,079	43%	10%	10.5	
1.8	7%	14,551	11%	-4%	2.8	
24.5	100%	128,822	100%	0%	24.5	
6.3	38%	45,364	35%	3%	5.8	
2.1	13%	17,236	13%	-1%	2.2	
5.7	35%	46,163	36%	-1%	5.9	
2.4	15%	19,459	15%	0%	2.5	
16.5	100%	128,222	100%	0%	16.5	
164.1		959,213			164.1	



# WASHINGTON STATE CIVIL LEGAL AID DELIVERY REGIONS



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## Appendix I Regional Planning: Process, Questions and Answers

## Regional planning: Process, Questions and Answers

The Revised State Plan calls upon Alliance partners in each region to plan and coordinate resource allocation, case service priorities and client service delivery. This document provides answers to questions that have been presented to the State Plan Review Committee during the review and comment process.

- Q. What are the geographic regions for which planning is required?
- A. Planning should occur in all of the 18 regions identified in the revised State Plan. In some areas where there are currently few local resources, planning should be coordinated with providers serving clients in contiguous regions and who have delivery responsibilities in the smaller region.
- Q. Who should be involved in regional planning?
- A. Regional planning should be inclusive of all local providers and supporters. Participants will include representatives from:
- the NJP office currently responsible for the counties comprising the region
  - CLEAR and NJP's Contract Attorney Program (where contract attorney services are anticipated to be part of the delivery mix)
  - all pro bono programs in the region
  - statewide programs with substantial service delivery responsibilities in the region (e.g., Columbia Legal Services, Northwest Immigrants Rights Project, Unemployment Law Project) as appropriate based on issues to be discussed, potential client groups in the region, etc.
  - Alliance-funded legal aid providers present in the region (including specialty providers)
  - Non-Alliance funded partners willing to participate
  - Courthouse facilitators
  - Local bench and bar leaders
  - Other people who provide information or assistance to clients where appropriate. Staff from the statewide programs such as CLS, NWIRP, ULP or others should be present when, etc.
- Q. What is the purpose of the regional planning exercise?
- A. The purpose of regional planning is to develop a coordinated approach to client legal aid service delivery in areas of high priority client needs and to ensure that the full range of client services defined in the revised State Plan are equitably available to all clients in the region – including those ineligible for federal or state legal aid. The revised State Plan calls for planning both with the resources currently available and planning for an increase in resources.
- Q. What is the end result of the regional planning exercise?
- A. Each region is being asked to submit a plan that generally provides:
- An overview of client population demographics (who are the clients? Are there significant populations of clients who cannot be served with state or federal funds? Are there client communities that experience significant barriers to



accessing civil legal aid services and for whom special outreach and educational efforts need to be undertaken?)

- An assessment of the most important civil legal problems facing the clients (regional client service priorities statement)
- A report identifying recommended changes in organizational relationships (if any) and generally assigning responsibilities for serving high priority client needs among the various regional providers (including statewide providers serving clients within the region)

Q. How much time will this take away from client service delivery?

A. Because planning is essential to effective and responsive client service delivery, the time dedicated to this effort should be considered as part of a staff person's client service delivery activities. The initial regional planning effort is likely to require at least a couple of extended meetings of all regional providers. More time will likely need to be spent in regions with a large and diverse population base and a larger number of providers.

Q. We're not planners; we're legal aid providers. Is there help available?

A. Yes, the Access to Justice Board will make staff available to help with the initial round of regional planning. Planning support staff will be available to facilitate meetings, provide information about approaches being taken in other regions, identify "best practices," and help think through the range of potential pro bono and other delivery configurations that the revised Plan expects regional planners to consider.

Q. Why doesn't the ATJ Board just tell us what we should do?

A. The ATJ Board does not presume specific outcomes from regional planning. Within the general framework set forth in the revised Plan (including the required range of client services and the minimum client service and pro bono administrative capacity thresholds), the revised Plan leaves the specifics to the regional planners.

Q. What should the regional plan look like?

A. For consistency purposes, each plan should be written and address the following questions:

- What resources are currently available in the region to provide client services? (Include statewide resources actually available such as CLEAR, Contract Attorney Program, work CLS is doing in the region, representation provided by other statewide and local specialty providers, etc.). In addition to reviewing what programs are presently providing what types of service, it will be important to determine what programs are actually able to provide (as opposed to what types of cases planners might want them to do). This is particularly important in determining the most effective role for pro bono programs, as there may be high priority cases that pro bono attorneys will not take, no matter how much training and support is provided. It does not make sense to build a plan based on the assumption that a certain provider will take cases they will in fact not take.

- What are the most important client needs in the area based on current knowledge? This will involve reviewing the Civil Legal Needs Study, NJP's most recent client service priority statements for each region, updated Matrix information (to be provided by the ATJ Board), other relevant local and regional client service needs information.
- In addition to information that has already been compiled, what outreach or additional information gathering might be helpful in determining priority client needs? How might that information be obtained?
- Based on the information you have gathered, what are the regional client service priorities?
- Which program will work on which priorities? In what way? How will programs coordinate work? Who will be responsible for coordination?
- In deciding what programs will work on which priorities, it will likely be useful to start with providers that have a narrower scope and work to providers that have a broader scope. And, so the planners might ask:
  1. To what degree and in what areas is the pro bono program able to provide consistent and reliable levels of legal assistance. (Substance, type and intensity).
  2. If there is a specialty provider (e.g., TeamChild, local YWCA DV program), what is its role in relation to the priority needs. What will it do, for whom and how?
  3. What client needs must be addressed by a non-state/LSC funded entity. What entity will be engaged and at what level?
  4. What is the resulting role for the NJP office?
  5. Can the current resources be organized in a way to increase, or more efficiently provide, client services? (For example: Can NJP deploy its staff more frequently to the region? What can pro bono attorneys do; what won't they do? How can we maximize their involvement on high priority cases that they may be willing to take? What are the implications on the case acceptance and client service priorities for the staffed and specialty programs? Are there changes in organizational relationships that appear to be indicated by operation of the revised Plan? If so, what changes are recommended?)
- What outreach and community based legal education, information and access strategies need to be developed for identified client communities who cannot adequately access CLEAR. Who will assume responsibility for carrying out these activities and where and how will be the conducted. (Note: To ensure maximum relevancy, the revised State Plan suggests that community based outreach and educational activities be conducted in places where identified communities of persons who are unable to afford

legal counsel gather, such as senior centers, Indian Reservations, community action programs, social service agencies, migrant health centers, churches, legal aid program offices, domestic violence advocacy programs, court houses, schools, etc.) What efforts are required to ensure that outreach and community based activities are fully accessible to the target population, including members with disabilities or language access needs.

- Q. To what extent should the regional plan focus on client service delivery with an expanded resource base?
- A. The regional plan should include some preliminary thoughts and expectations for expanded client service delivery as additional resources are made available to the region. This is not intended as an abstract exercise, but a guide for future planning. Some relevant questions include:
- If additional resources are made available to the region, where should they be deployed? What services should they be designed to provide and what priorities should they address?
  - Are there specific pressing needs for which the region should seek special grants or resources now?
  - How and when will the plan be evaluated and, if necessary, modify the regional plan? Who will be responsible for evaluation?
- Q. What do we do with the regional plan? To whom should it be sent?
- A. The regional plan should serve as a continuous guide for client service delivery in the region. A copy of the regional plan should be sent to the ATJ Board's State Plan Oversight Committee.



## Appendix J Definitions

## DEFINITIONS

### **Access to Justice Board (ATJ)**

Body established by the Washington Supreme Court as the central planning, coordination and oversight body for Washington State's integrated civil legal aid delivery system.

### **ATJ Conference**

Access to Justice Conferences have been held annually since 1996. Conferences are attended by judges, court staff, legal aid providers, funders, boards and many other Alliance members and supporters concerned with equality of access to justice. Each annual conference features a skit, which sets the theme for the conference program. The report from each conference includes a set of recommendations (listed under "Related Publications" at right), which serve as benchmarks for measuring the progress of statewide initiatives from year to year.

### **ATJ Communications Plan**

The plan outlines a strategy to create and disseminate a clear and consistent message about the vision and work of the Washington State Alliance for Equal Justice. The information in the communications plan helps Alliance members and supporters provide information about their work, develop positive relationships, enhance understanding in the community, encourage volunteerism and raise funds to support the delivery of civil legal aid in Washington.

### **ATJ Technology Plan**

The plan is a technology roadmap for the Washington State Alliance for Equal Justice. The plan has three general focuses: how technology can enhance direct services to low and moderate income people; how technology can improve the efficiency and effectiveness of the work of legal services providers; and how we can ensure that the implementation of technology in justice systems creates opportunities not barriers for low and moderate income and vulnerable people.

### **ATJ Technology Principles**

Access to justice is a fundamental right in Washington State, and the State Supreme Court has recognized and endeavored to protect that right in its establishment of the Access to Justice Board. Because technology can affect access to justice, the Access to Justice Technology Principles were adopted by the State Supreme Court to provide general statements of broad applicability and a foundation for resolving specific issues as they arise. In essence, the use of technologies in the Washington State justice system must advance and protect the fundamental right of equal access to justice. There is a particular need to avoid creating or increasing barriers to access and to reduce or remove existing barriers for those who are or may be excluded or underserved, including those not represented by counsel.

### **Campaign for Equal Justice**

Also known as "C4EJ," it is a statewide private resource development campaign targeted principally at attorneys and law firms.

### **Capacity**

The ability to meet the civil justice needs of low income individuals in any given client

service region. This capacity may be met by staffed program attorneys, volunteer attorneys or through CLEAR.

**Civil Gideon**

The concept is that there should be a right to counsel to civil cases. There is an ongoing effort in Washington and across the country to establish a legally enforceable right of indigent persons to competent attorney representation in non-criminal judicial proceedings.

**Civil Legal Needs Study**

A comprehensive study of unmet civil legal needs of poor and vulnerable people in Washington state, including the unmet needs of those who suffer from disparate access barriers. The completed study sets forth findings identifying the critical needs of low income people in the state of Washington, the nature of their legal problems and the barriers to access to justice.

**CLEAR**

Coordinated Legal Education Advice and Referral. CLEAR is Northwest Justice Project's toll-free telephone service for eligible low-income people to obtain free legal assistance with civil legal problems. Clients in need of interpreter services in order to access legal services through NJP are entitled to those services. CLEAR serves eligible clients in every county except King County.

**CLEAR\*Sr.**

CLEAR\*Sr is a toll-free legal hotline for seniors, and part of NJP's Coordinated Legal Education, Advice and Referral (CLEAR) system. CLEAR\*Sr provides free legal services over the telephone to Washington seniors regardless of their income. CLEAR\*Sr serves all counties in the state of Washington.

**Client service region**

Defined geographic service delivery regions created based on a range of relevant social, demographic, economic, transportation and client service delivery considerations.

**Community Action Agency (or Community Action Program or Community Action Council)**

A type of umbrella social service agency; several in Washington house pro bono programs.

**Contract attorney programs**

NJP pays individual attorneys to handle individual legal aid cases on a reduced fee basis in some regions.

**Courthouse facilitators**

Created by State Supreme Court rule 37 and authorized by statute RCW 26.12. 240, courthouse facilitators provide basic services to pro se litigants in family law cases.

**Equal Justice Coalition**

Equal Justice Coalition is a standing committee of the ATJ Board and serves as the principal voice of the ATJ Board and the Alliance on matters relating to state and federal funding. Administered by the Legal Foundation of Washington



**Extended representation**

Also known as “full” or “direct” representation, this representation envisions a relationship with a client including a retainer agreement and the completion of legal work for the client. *Contrast,*

**Advice:** providing legal information and legal judgment and weighing of options regarding the client’s situation.

**Brief Service:** completing limited tasks for the client such as providing brochures and self help materials, assisting with the drafting of a letter or pleading but making no further commitment to represent the client in the case.

**Referral:** giving the client information on where to obtain legal representation or giving the client’s information to an agency or attorney who will take the case.

**FTE**

Full time equivalency. An “FTE advocate” delivers 1500 hours of client representation per year. An “FTE advocate” may be composed in whole or part by any the following: staff program regional office and special project attorneys and paralegals, the FTE equivalent representation delivered by *pro bono* programs, representation through judicare contracts, representation resulting from employment of local attorneys on a part time basis or services delivered by CLEAR to the region.

**GIS mapping**

Geographic Information Software (GIS). This is a tool used by the ATJ Board to develop on-line interactive maps of Washington State utilizing key demographic and resource information about legal aid delivery. (See Appendix F).

**Judicare**

A contract based program providing paid attorneys to represent low income clients. In Washington this is done through the Contract Attorney Program

**LAW Fund**

Statewide private fundraising organization that administers the Campaign for Equal Justice.

**Legal aid presence**

Presence is central to the effectiveness of the civil legal aid system. Presence ensures client knowledge of and access to services, and serves as a deterrent to conduct that undermines or violates the rights of low income people and communities.

**Legal Foundation of Washington**

Charged with administering and overseeing use of Interest on Lawyer Trust Account (IOLTA) funds. Hosts and staffs the EJC and LAW Fund.

**Legal Services Corporation**

Congressionally established non-profit corporation that provides funding for civil legal aid in all 50 states. In Washington, LSC funds are granted to the Northwest Justice Project.

**Office of Civil Legal Aid**

Independent judicial branch agency that administers and oversees state appropriated legal aid funding.

**Presence**

See “legal aid presence”

**Pro bono programs**

Also known as Volunteer Attorney Services (VAS), Volunteer Attorney Legal Services (VALS) or Volunteer Lawyer Programs (VLP) these programs recruit and support volunteer attorneys to provide a broad spectrum of services (direct representation, brief services, advice, pro se assistance and community education) in all areas of civil law. Pro bono programs are able to assist clients not eligible for LSC or state funded services. Some pro bono programs have attorneys on staff, others do not.

**Rural**

Rural means counties with a population density of < 85/sq. mile. Even though this recommendation focuses on such rural areas, the discussion applies equally to urban and suburban areas. For example, King County could be organized into at least three discrete sub-areas within which all delivery capacities should be available: Greater Seattle, East and North County (area served by ELAP), and South County. Similarly, other counties not defined as “rural” (e.g., Kitsap) nevertheless lack many of the minimum necessary delivery capacities and therefore require a similar analysis and response.

**Satellite office**

A physical location within a client service region that is not a full time legal aid office but is an outpost where staff meet and serve clients on some regularized basis.

**Specialty legal aid programs**

Employ staff attorneys to provide representation to low-income clients in discreet legal specialties, including immigration, employment law, children’s issues and domestic violence.

**Staffed legal aid program**

Entities with attorneys on staff who provide a full range of client representation to low income eligible clients in several substantive areas of the law.

**Supreme Court’s Task Force on Civil Equal Justice Funding**

Established by order of the Supreme Court on November 1, 2001, the Task Force was given five charges: to Undertake a Comprehensive Study of the Civil Legal Needs of Low Income People; to develop an analysis of and rationale for long-term, sustained, and permanent state funding for essential legal services for poor and vulnerable people in Washington State; to establish an appropriate level of funding for state supported civil legal services needed to address identified unmet civil legal needs of poor and vulnerable people in Washington State; to identify and propose strategies to secure long-term, sustained, and permanent stable funding needed to meet this need; and to develop recommendations for the proper administration and oversight of publicly funded civil equal justice services in Washington State.

**Washington State Alliance for Equal Justice (members and supporters)**

The Alliance is a network of organizations providing legal aid to those with nowhere else to turn. The structure created by the Alliance helps members provide information about their work, develop positive relationships, enhance understanding in the community, and raise funds to support the delivery of civil legal aid in Washington.

**Members** of the Alliance are organizations whose predominant mission is to provide civil legal aid: legal information, advice and representation to low-income people.

**Supporters** include groups like Law Fund, law libraries, even private law firms who believe in what we do and actively contribute or support it in some way.

**WSBA Pro Bono and Legal Aid Committee**

Known as PBLAC, The *Pro Bono* and Legal Aid Committee deals with questions in the fields of *pro bono* and legal aid, with respect to: supporting activities that assist volunteer attorney legal services programs and organizations, and encouraging *pro bono* participation; addressing the administration of justice as it affects indigent persons throughout the state; and cooperating with other agencies, both public and private, interested in these objectives. The major focus of the *Pro Bono* and Legal Aid Committee has been the implementation of the Volunteer Attorney Legal Services (VALS) Action Plan.





# Washington State Bar Association

## PERFORMANCE GUIDELINES FOR JUVENILE OFFENSE REPRESENTATION

[Date]

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## PREFACE

These *Performance Guidelines for Juvenile Offense Representation* are intended to be used as a guide to professional conduct and performance. These guidelines are specific to representation of juveniles in criminal cases.

Attorneys should consider these *Performance Guidelines for Juvenile Offense Representation* in conjunction with the Washington State Bar Association *Performance Guidelines for Criminal Defense Representation*, approved June 3, 2011. Attorneys appointed by the court in juvenile criminal proceedings also shall comply with Juvenile Criminal Rule (JuCR) 9.2 and the Washington Supreme Court's *Standards for Indigent Defense*.

These Guidelines emphasize the unique demands placed upon counsel when representing and communicating with young clients and the need to use developmentally appropriate language. Counsel should be aware of, and use, listening and speaking skills that address developmental and other age-related factors necessary to facilitate effective communication with juvenile clients.

As stated in the U.S. Department of Justice's Statement of Interest, filed March 13, 2015 in *N.P., et al. vs. The State of Georgia, et al.*, Superior Court of Fulton County No. 2014-CV-241025, at page 11:

*“Indeed, the unique qualities of youth demand special training, experience and skill for their advocates. For example, although the need to develop an attorney-client relationship is the same whether an attorney is representing an adult or a child, the juvenile defense advocate’s approach to developing the necessary trust-based relationship differs when the client is a child.*

*‘Because the client in juvenile court is a minor, counsel’s representation is more expansive than that of a criminal defense lawyer for an adult. Lawyers for children must be aware of their clients’ individual and family histories, their schooling, developmental disabilities, mental and physical health, and the client’s status in their communities in order to assess their capacities to proceed and to assist in their representation. Once those capacities are understood, the lawyer must vigorously defend the juvenile against the charges with that capacity in mind, and then prepare arguments to obtain rehabilitative treatment should the child be found guilty.’” [footnote omitted].*

### Guiding Principles

These Guidelines draw upon the 2012 *National Juvenile Defense Standards*, developed by the National Juvenile Defender Center and Models for Change. As with those standards, the Guiding Principles for these guidelines acknowledge juvenile defense as a specialized practice requiring specialized skills, that juvenile court is an adversarial forum, and that juvenile court adjudication carries with it serious, direct and long-term consequences.

1. Juvenile defenders play a critical role in the fair administration of justice for children;
2. Juvenile defense is a specialized practice anchored in juvenile-specific training and practice skills;
3. Juvenile defense requires zealous advocacy;<sup>1</sup>
4. Juvenile defense requires competence and proficiency in court rules and the law;
5. Juvenile defense requires legal representation that is individualized;
6. Juvenile defense requires developmentally appropriate communication with the client;
7. Juvenile defense is based on the clients' expressed interests;
8. Juvenile defense requires that clients be meaningful participants in their defense;
9. Juvenile defense requires counseling clients through the legal process with attention to both direct and indirect consequences;
10. Juvenile defense requires ensuring that clients and their families are treated with dignity and respect and that there is decorum in the courtroom;
11. Juvenile defense requires identifying and challenging barriers and deficiencies that impair juvenile defenders' abilities to provide high-quality representation; and
12. Juvenile defense requires identifying and challenging systemic barriers and deficiencies that lead to disproportionate involvement of vulnerable, underserved populations in the juvenile criminal system.

The object of these guidelines is to identify the courses of action that may be necessary, advisable, or appropriate, and thereby to assist the attorney in deciding upon the particular actions to be taken in a case to ensure that the client receives the best representation possible.

The steps taken should be tailored to the requirements of a particular case. The guidelines recognize that representation in criminal and juvenile offender cases is a difficult and complex responsibility. Attorneys must have the flexibility to choose a strategy and course of action that competently and diligently pursue the objectives of representation.

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<sup>1</sup> As used in these Guidelines, "zealous" refers to the active exercise of skill, hard work, judgment and dedication necessary to understand the individual client's case and vigorously, effectively and professionally protect the client's rights and advocate for his/her interests.



As used in these Guidelines, “must” and “shall” are intended to describe mandatory requirements.

“Should” is not mandatory but is used when providing guidance about what attorneys can and are encouraged to do in the interest of providing quality representation.

In addition to the duties described in the *Performance Guidelines for Criminal Defense Representation (2011 Guidelines)* approved June 3, 2011 by the Washington State Bar Association Board of Governors, counsel representing juvenile clients should use these *Performance Guidelines for Juvenile Offense Representation (Juvenile Guidelines)* as a guide to professional conduct and performance.

## **Guideline 1. Juvenile Defense Counsel’s Role Is to Provide Quality Representation to Clients at All Stages of the Juvenile Criminal Process**

### **1.1 The paramount obligation of defense counsel is to provide conscientious, diligent, and quality representation to their clients at all stages of the juvenile criminal process.**

This requires special training in issues unique to juveniles and the active exercise of skill, knowledge, hard work, judgment and dedication necessary to understand the individual juvenile client and case. Further, this requires counsel vigorously, effectively and professionally to protect the client’s rights and advocate for his/her interests. Counsel should litigate the client’s case vigorously and challenge the state’s ability to prove its case beyond a reasonable doubt. Attorneys also have an obligation to abide by ethical requirements and act in accordance with the rules of the court.

- (a) Counsel shall not substitute his or her own view of the client’s best interests for those expressed by the client;
- (b) Where counsel believes that the client’s directions will not achieve the best long-term outcome for the client, counsel shall provide the client with additional information to help the client understand the potential outcomes and offer an opportunity to reconsider; and
- (c) If the client is not persuaded, counsel shall continue to act in accordance with the client’s expressed interests regarding the objectives of representation.

### **1.2 Obligation Regarding Adequate Resources for Effective Assistance**

- (a) Effective representation in a juvenile case often requires access to professionals with training in social work, educational advocacy, and other disciplines relevant to juveniles;
- (b) Counsel shall advocate for resources necessary to provide effective, high-quality representation, including legal, investigative, social work, expert witness, and educational resources;

- (c) Counsel shall not accept new cases and should consider moving to withdraw from existing cases when lack of resources prevents him or her from providing quality representation; and
- (d) Counsel shall make a record if counsel is not able to provide quality representation to the client. This may include documentation of limited or denied access to clients in custody and late or denied discovery. Counsel should consider seeking interlocutory appellate review and assistance from *amicus* counsel.

### **1.3 Scope of Representation**

- (a) In addition to the duties outlined in the *2011 Guidelines*, counsel shall consult with the client and provide representation at the earliest stage possible;
- (b) Counsel shall be clear with the client what the scope of representation will be.
- (c) Counsel should maintain continuous representation in all phases of the adjudication process, including, arraignment, pre-trial detention hearings, discovery, trial, pleas, and disposition, unless qualified counsel is available to provide representation at arraignment and pre-trial detention hearings. Ideally, to provide continuity of representation the same lawyer should represent the client from arraignment through disposition and any restitution, modification, and probation violation hearings. If local practice does not provide for that continuity of representation for appointed counsel, counsel at the outset of the representation should seek to clarify the scope of appointment and to assure that counsel's work will be appropriately compensated. In cases in which counsel is appointed, the attorney's work must be accurately and completely accounted for in complying with caseload limits. As contemplated by the Washington Court Rules CrR 3.1, CrRLJ 3.1 and JuCR 9.2 *Standards for Indigent Defense*, attorney time required for arraignment and pre-trial detention hearings and for post-disposition hearings must be accounted for in determining attorney caseload limits;
- (d) If possible, when the client is facing an ancillary proceeding that coincides with the offender charge, such as dependency, status offenses, school discipline and re-entry, and driver license suspension hearings, the lawyer should assist the client in obtaining the services of social workers, educational advocates such as TeamChild or other qualified individuals if the client does not already have such assistance and coordinate with the provision of such services. If the client has counsel or other representative in such a proceeding, the lawyer should consult and coordinate with that representative; and
- (e) When possible, counsel should represent a client at post-disposition hearings and institutional disciplinary hearings.

### **1.4 Explain Client Confidences and Confidential Information**

- (a) Counsel shall explain that the client's privileged conversations with counsel are protected from disclosure to anyone, including the client's parent, the prosecutor,



and the court. Counsel shall also explain that the attorney-client privilege may be deemed waived if anyone else, including a parent, is present during a conversation between the client and counsel, unless a parent-child communication falls within the exceptions of RCW 5.60.060;

- (b) Counsel shall be familiar with local case law, statutes, and codes of professional conduct regarding disclosure of privileged attorney-client conversations, as well as information that may embarrass or be harmful to the client. Counsel has a duty to keep all client communications, as well as information arising out of the representation, confidential;
- (c) Counsel shall discuss with the client what personal or privileged information the attorney is authorized to share with others, such as parents or probation counselors;
- (d) Counsel shall zealously protect confidential information from public disclosure. Counsel should not discuss the case or any confidential information when people other than the client are present and able to hear. Counsel shall not knowingly use a confidence or secret of the client unless the client provides informed consent or does so as required by rules of professional conduct; and
- (e) Counsel shall exercise discretion in revealing the contents of psychiatric, psychological, medical, social, and educational reports that bear on the client's history or condition. Counsel shall not disclose data or conclusions contained in such reports unless the client provides informed consent or release is impliedly authorized in order to carry out the representation, and even then, only if doing so will advance the client's stated objectives. Prior to requesting reports from outside institutions (e.g., educational reports), counsel shall obtain informed consent from the client.

## **Guideline 2. Quality Representation Requires Effective, Developmentally-Appropriate Communication with Juvenile Clients and Specialized Training and Experience**

### **2.1 Effective Communication with Juvenile Clients**

In addition to the duties in *2011 Guidelines* 1.4 (b), counsel shall:

- (a) Make sufficient time available with the client to ensure communication is effective and the client fully understands the communication, and enlist the help of appropriate experts and interpreters and other third parties when necessary;
- (b) Work to ensure that differences between the client and attorney, such as maturity, disabilities, literacy, culture and language, do not inhibit attorney-client communication or counsel's ability to ascertain and effectively discuss the client's expressed interests; and
- (c) Communicate in an age appropriate and developmentally appropriate manner.



**2.2 Counsel shall be knowledgeable about, and utilize, current statutes, case law, rules of procedure, rules of evidence, and rules of appellate procedure that affect juvenile practice.**

- (a) Counsel shall be knowledgeable about a juvenile’s right to counsel, determination of indigency, waiver of counsel, right to effective representation of counsel, and other issues specific to representation of juveniles, such as shackling of juveniles and conditions of confinement;
- (b) Counsel should be knowledgeable about the key aspects of developmental science and other research, such as discussed in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Miller v. Alabama*, 567 U. S. 460, (2012), that inform specific legal questions regarding capacities in legal proceedings, amenability to treatment, and culpability;
- (c) Counsel should be familiar with and consider the implications of research specific to juveniles, including, but not limited to, brain development, language and literacy development, and the impact of adverse childhood experiences (“ACEs”) [as identified by the Centers for Disease Control and Prevention, <http://www.cdc.gov/violenceprevention/acestudy/index.html>] and the manner in which those experiences are assimilated by the youth;
- (d) Counsel should be knowledgeable about the effects of trauma and sexual assault on their clients.
- (e) Counsel should be knowledgeable about any risk assessment tools used by the court, probation officers, and prosecutors;
- (f) Counsel should be knowledgeable about issues related to special education;
- (g) Counsel should be knowledgeable about the specialized skill of communicating with young clients in a developmentally appropriate and effective manner;
- (h) Counsel should be knowledgeable about the consequences of juvenile adjudication;
- (i) Counsel should be knowledgeable about the educational and social services protections and resources that are available to youth that are not available to adults; and
- (j) Counsel should be knowledgeable about where racial disparities exist in the juvenile justice system, how racial bias affects youth of color, and how racial bias can affect counsel’s practice.

**2.3 Use of Supporting and Consulting Resources**

- (a) If the lawyer does not have enough experience or training to provide effective representation alone in a case or type of cases, the lawyer shall undertake to obtain guidance from a more experienced attorney and/or seek more experienced co-counsel, and “brainstorm” the work, to be able to provide effective representation.

The lawyer should seek funding for that assistance if it is not immediately available in the lawyer's office;

- (b) Counsel should seek opportunities to consult regularly with other lawyers representing juvenile clients and seek support from colleagues and appropriate organizations;
- (c) Counsel should seek support from colleagues and appropriate organizations when systemic barriers interfere or conflict with counsel's duties to clients; and
- (d) Counsel should seek evaluative feedback from more experienced counsel if it is not provided in counsel's own office.

### **Guideline 3. Quality Representation Requires That Juvenile Defense Counsel Protect Clients in Need of Special Protection**

#### **3.1 Obligation Representing Non-Citizen Clients**

Counsel shall identify whether the client is a U.S. citizen. When the client is a non-citizen, counsel shall identify the client's immigration status and history and consult with available resources such as the Washington Defender Association's Immigration Project. This consultation should also include discussion of avenues for undocumented clients to obtain lawful status. If the client may be Special Immigrant Juvenile Status (SIJ Status) eligible, counsel should, where possible, assist the client to obtain available immigration legal resources to pursue an SIJ Status application.

Counsel shall advise the client about possible adverse immigration consequences and, unless otherwise advised by the client, shall advocate for a resolution to the charges that avoids adverse immigration consequences and preserves avenues to obtain lawful status.

#### **3.2 Obligation Regarding Shackling of Juveniles**

Counsel should challenge the indiscriminate shackling of clients in the courtroom or in any location that affects communication with the client or unlawful shackling of the client during labor.

#### **3.3 Obligation Regarding Solitary Confinement of Juveniles**

In consultation with clients, counsel should challenge the solitary confinement of clients.

#### **3.4 Obligation to Protect Clients' Right Against Self Incrimination**

Counsel should seek to protect clients' right against self-incrimination. This includes advising clients about their right to remain silent, notifying the detention facility that an incarcerated client has a lawyer, and seeking to prevent law enforcement from interrogating an in-custody juvenile before the juvenile has consulted with an attorney.



### **3.5 Obligation of Counsel Regarding Disparate Treatment of Clients**

Counsel should be informed about racial disproportionality in the juvenile justice system and affirmatively represent the client to prevent adverse consequences of institutional bias. Counsel should identify when other personal factors presented by a client, such as gender identity and/or sexual orientation, risk triggering institutional and/or individual biases and affirmatively represent the client to prevent adverse consequences associated with them. Counsel should consider using empirical data to advocate for clients in detention hearings, motion practice, trial, and sentencing and any other hearings.

Counsel should also be aware of their personal and implicit biases and the potential impact these may have on the representation and the discharge of ethical duties to the client.

### **3.6 Obligation of Counsel to Investigate and Address Custodial Mistreatment**

If counsel learns that the client has experienced abuse or misconduct by law enforcement, detention officials, or other persons in a custodial facility, counsel, with the client's consent, should document and take appropriate steps to stop the mistreatment of the client, including informing the facility and seeking release or transfer of the client.

### **3.7 Capacity of Youth**

Counsel shall be versed in the rules, statutes, and case law governing juvenile capacity to commit a crime, including in particular age-related presumptions of incapacity. Counsel shall become familiar with experts qualified to assess capacity and learn the mechanisms for requesting an evaluation. Counsel shall learn the procedures for a capacity hearing in his or her jurisdiction and fully comprehend the ramifications if the client is found to have capacity.

### **3.8 Competence of Youth**

- (a) In addition to the duty prescribed by Rules of Professional Conduct (RPC) 1.2 (Scope of Representation and Allocation of Authority Between Lawyer and Client) and 1.14 (Client with Diminished Capacity), counsel shall learn to recognize when a client's ability to participate in his or her own defense may be compromised due to developmental immaturity, mental health disorders, or developmental/intellectual disabilities;
- (b) Counsel shall be versed in the rules, statutes, and case law governing juvenile competence to stand trial in the jurisdiction. Counsel shall become familiar with experts qualified to assess competence to stand trial and learn the mechanisms for requesting an evaluation. Counsel shall learn the procedures for a competence hearing in his or her jurisdiction and fully comprehend the ramifications if the client is found incompetent to stand trial;
- (c) Counsel shall assess whether the client's level of functioning limits his or her ability to communicate effectively with counsel, as well as his or her ability to have a factual and rational understanding of the proceedings. When counsel has reason to doubt the client's competence to stand trial, counsel shall gather additional



information and consider filing a pre-trial motion requesting a hearing for competence determination. Counsel should consult with the client's family when possible; and

- (d) If counsel decides to proceed with a competency hearing, counsel shall secure a qualified, independent expert to evaluate the client's competence. Counsel shall then advise the client about the evaluation and proceedings, analyze the results of the evaluation, prepare the expert for testimony, and prepare his or her case substantively and procedurally for the hearing. Counsel shall advise the client about the content of the hearing and assist the client in navigating the complexities of the proceedings.

#### **Guideline 4. Each Stage of the Juvenile Criminal Process Requires Diligence, Skill, and Effective, Developmentally Appropriate Client Communication**

##### **4.1 Formal and Informal Discovery**

Counsel has a duty to pursue, as soon as practicable, discovery as provided by JuCR 1.4 and CrR 4.7 and to pursue such informal discovery methods as may be available to supplement the factual investigation of the case. In considering discovery requests, counsel should take into account that such requests may trigger reciprocal discovery obligations.

##### **4.2 Initial Client Contact**

- (a) In addition to the duties in *2011 Guidelines* 1.4 and 2.2, counsel shall explain and discuss, in developmentally appropriate language, the role of both the client and counsel;
- (b) **Early Contact.** Counsel shall make contact with the client at the earliest possible time, even prior to formal appointment, when possible. Counsel for a detained client shall visit the client in detention and ensure that the meeting occurs in a setting that allows for a confidential conversation. If the client is in custody, contact should be within 24 hours of appointment and shall be within no more than 48 hours, unless there is an unavoidable extenuating circumstance. Counsel should send a representative to see the in-custody client within 24 hours if counsel is not able to see the client within 24 hours; and
- (c) The initial interview should be in person in a private, legally privileged setting, e.g., away from the client's parents or others. Counsel should explain and maintain the attorney-client privilege and assure that the client knows the communication is confidential.
- (d) During the first meeting with the client, counsel shall discuss, in developmentally appropriate language:
  - (i) How the client can contact counsel;

- (ii) The attorney-client relationship, including confidentiality;
  - (iii) The objectives of the representation; and
  - (iv) The expected court schedule.
- (e) In addition to bail information for adults discussed in the *2011 Guidelines 2.2* and *2.3*, counsel at the initial meeting should seek to obtain information about:
- (i) The client's ties to the community, family relationships, employment record and history, school record and history;
  - (ii) The client's age;
  - (iii) The client's residence, physical and mental health, child welfare status, and school status;
  - (iv) Information regarding the client's needs for immediate medical or mental health care;
  - (v) The client's citizenship status;
  - (vi) The need for signed releases for information from the client's school, medical, and psychological service providers and if possible obtain them;
  - (vii) Contact information for the client's closest family or caretaker; and
  - (viii) Any previous arrests and experience the client has had in juvenile court.
- (f) If appropriate, during the initial meeting counsel may discuss with the client:
- (i) The conduct alleged in the police report and charging documents, including potential evidence or witnesses;
  - (ii) The legal criteria, options, and conditions the court may set for pre-trial release;
  - (iii) Diversion, detention, and placement options; and
  - (iv) The next procedural steps.
- (g) At an early stage of the representation, counsel shall discuss, in developmentally appropriate language:
- (i) The role of parents in the proceedings and how counsel will interact with them;
  - (ii) The elements of each charged offense and the potential dispositions for such offenses;

- (iii) The roles of each juvenile court stakeholder; and
- (iv) The consequences of a finding of guilt including enhancement of future sentencing for subsequent juvenile and adult offenses.

#### **4.3 Obtaining Further Information from the Client**

Unless the information is obtained during the first meeting with the client, counsel shall promptly attempt to obtain from the client, outside the presence of any third party including the client's parent, and in a legally privileged setting:

- (a) Circumstances of any police interrogations, searches, seizures, and identification procedures;
- (b) Information about how the client was treated while in custody of the police, other investigative agencies, mental health departments, or the prosecution;
- (c) Names, addresses, phone numbers, or any other information about witnesses who may be relevant to suppression hearings, the fact-finding hearing, or disposition; and
- (d) Information about the client's prior contact(s) with the system, including the nature of any relationships with a probation officer.

Unless the information is obtained during the first meeting with the client, counsel shall at an early stage of the representation obtain the client's account of the incident.

#### **4.4 Maintain Regular Contact with the Client**

Counsel shall maintain regular contact with the client. Because of the unique characteristics of youth, the attorney should seek out the client rather than expect the client to initiate communication. If a youth is in custody, counsel shall visit on a regular basis. If a client is out of custody, counsel shall arrange phone contacts and face-to-face meetings as appropriate before future court hearings. Regardless of the client's custodial status, counsel shall provide the client with a phone number at which counsel can be reached.

Counsel shall promptly respond to telephone calls and other types of communications from the client, ideally within one business day. At every stage of the proceeding, counsel shall work to provide the client with complete information concerning all aspects of the case.

#### **4.5 Parents and Other Interested Third Parties**

Counsel shall inform the client and third parties that he or she is required to maintain confidentiality even when third parties are providing services to the client.

Counsel shall not substitute a parent's or third party's interests or view of the client's best interests for those expressed by the client, even if a parent or third party is paying for the representation. In



addition to the duties outlined in *2011 Guideline* 1.3(b), counsel shall not serve as both defense counsel and *guardian ad litem* for the same child.

- (a) Counsel shall know state case law, statutes, and codes of professional conduct regarding all disclosures to third parties;
- (b) Counsel shall explain to the client the need to share information with third parties, and specify the information to be shared, the purpose of sharing it, and the possible consequences. Counsel shall obtain authorization, express or implied as permitted by RPC 1.6, from the client prior to communicating information to third parties; and
- (c) Counsel should allow clients to consult with family members before making critical decisions about their case. When a third party, including a parent, is trying to direct the representation of the client, counsel should inform that person of counsel's legal obligation to represent only the expressed interests of the client. In the event of a disagreement, counsel is required to abide exclusively by the wishes of the client.

#### **4.6 Early Stages**

##### **a. Pre-Charge Representation of the Client**

When representing a client prior to his or her initial hearing is possible, counsel shall protect the client's interests by:

- (i) Protecting the client from making incriminating statements or acting against the client's own interests, including advising the client, in developmentally appropriate language, about the right to counsel and the right to remain silent; and
- (ii) Advocating for the client's release under conditions most favorable and acceptable to the client.

##### **b. Protect the Client's Interests During Police Identification and Investigative Procedures**

- (i) Counsel shall be familiar with all laws and local rules regarding availability of counsel during police identification and investigative procedures;
- (ii) Counsel should consider challenging any statements made in an in-custody interrogation when the client has not consulted with counsel;
- (iii) Counsel should consider challenging any evidence obtained from the client when the client is in custody;
- (iv) In addition to the duties in *2011 Guideline* 3.3, when counsel is able, he or she should seek to be present at all phases of the identification proceedings to act as the client's advocate;

- (v) Counsel should advocate for notification of and attendance at police interrogation, identification and other investigative procedures involving the client, including when the police explain identification or other investigative procedures to the client;
- (vi) Counsel should seek to meet with the client in a legally privileged setting and advise the client on how to behave during the investigative processes;
- (vii) After a lineup, counsel, with an investigator if possible, should attempt to speak to any witness to the identification process as soon thereafter as possible; and
- (viii) Counsel should advocate for recording of any police interviews with the client.

#### **4.7 Prosecution Requests for Non-Testimonial Evidence**

Counsel shall be familiar with the law governing the prosecution's power to require a defendant to provide non-testimonial evidence (such as handwriting exemplars and physical specimens), the circumstances in which a defendant may refuse to do so, the extent to which counsel may participate in the proceedings, and the record of the proceedings required to be maintained. Counsel shall challenge probable cause as appropriate prior to the prosecution's obtaining of non-testimonial evidence.

#### **4.8 Role of Counsel in Advising on Diversion**

When counsel is representing a client who may be offered diversion, counsel shall assess, in light of discovery and the diversion program requirements, how to advise the client whether to answer questions about alleged offenses. Counsel should obtain a copy of the diversion agreement to be able to review it and to be able to advise the client about it.

#### **4.9 Role of Counsel at Arraignment, Probable Cause Hearings and Detention Hearings**

In addition to the duties in *2011 Guidelines* 2.3 and 3, and Juvenile Court Rule 1.6, counsel, when representing a client at arraignment, probable cause hearings and detention hearings, shall preserve the client's options until appropriate investigation, diversion, consultation and research can be completed.

- (a) Counsel shall advise the client, using developmentally appropriate language, of the importance of not waiving the right to representation and all other client rights;
- (b) Counsel should confirm that all hearings are recorded as required by JuCR 10.2;
- (c) As required by JuCR 7.3, at the probable cause hearing, counsel shall require the state to meet its burden of showing through a signed affidavit or live testimony that there is basis of knowledge for believing the account of a reliable informant that the act charged was committed and establish that the client committed the alleged offense;



- (d) Counsel shall seek immediate release of a detained client if doing so is consistent with the client's expressed interests. Counsel shall advocate for the removal of all physical restraints. Counsel should present the court with alternatives to detention and a pre-trial release plan;
- (e) Counsel shall request and review any detention risk assessment, checking for inaccuracies or mitigating factors that may affect the accuracy of risk scores assigned to the client; and
- (f) Counsel shall raise any factors, such as medical, psychological, or educational needs that may be adversely affected by detention, if the client permits their disclosure.

#### **4.10 Prepare Client and Parent for Probation Interviews**

- (a) Counsel shall advise the client, using developmentally appropriate language, that anything the client says to the probation officer may be shared with the court. Counsel should prepare the client for any interview with a probation officer; and
- (b) Counsel should advise the client to be respectful at the interview and not to discuss the alleged incident. Counsel should similarly prepare the client's parents and request they express their willingness to support the youth.

#### **4.11 Review of Detention Decisions**

Counsel shall consider seeking review, as the case progresses, of court decisions to detain the client. Review may consist of motions to reconsider, motions for revision of adverse decisions by a court commissioner, and motions for discretionary review in an appellate court. When appropriate, counsel shall file motions to reconsider the level of detention while a revision or an interlocutory appellate review is pending.

When all other remedies have been exhausted, counsel may consider filing a writ to challenge the client's imprisonment or detention at any relevant point during the proceeding.

#### **4.12 Investigation, Pretrial Motions and Pleas**

##### **a. Investigate Facts of the Case**

In addition to the duties in *2011 Guideline 4*, JuCR 9.2 (d), and *State v. A.N.J.*, 168 Wn.2d 91 (2010), counsel, using developmentally appropriate language, shall discuss with the client a prompt, thorough and independent investigation.

##### **b. Develop a Theory of the Case**

Counsel must have a thorough understanding of the elements of each alleged offense, as well as the affirmative or general defenses to each.

During investigation and trial preparation, counsel should develop and continually reassess a theory of the case, even if the case is on track to end in a plea.



**c. Interview Defense and State Witnesses**

Counsel presumptively should interview all known state witnesses and any other relevant witnesses the investigation or discovery may reveal. As part of the obligation to investigate the client's case, counsel shall consider whether to interview all witnesses named by the client. If new evidence is revealed in the course of interviewing witnesses, counsel shall attempt to locate and assess the value of the new evidence.

- (i) Counsel shall be familiar with state statutes, case law, and the code of professional conduct regarding the conducting and recording of interviews. Counsel shall be familiar with reciprocal discovery rules.
- (ii) Counsel shall attempt to confirm the availability of every known witness.
- (iii) Counsel should investigate factors that may affect witnesses' capacity for observation.
- (iv) Counsel shall document all efforts to locate and speak with witnesses, as well as information gathered from such interviews.
- (v) Counsel should conduct interviews with an investigator present to avoid the possibility of being required to withdraw from the case should impeachment testimony about the interview be needed.

**d. Obtain the Client's Social History**

- (i) Counsel shall be familiar with rules and procedures for obtaining and using information about the client, including the use of release forms and subpoenas.
- (ii) Counsel should investigate the client's social history. This includes acquiring documentation and interviewing persons with information relevant to the client's background, character, and any special education status, learning disability, and adverse childhood experiences, including physical and mental trauma and sexual assault.
- (iii) Counsel should seek records concerning the client's mental health, involvement with the child welfare system, educational background and/or intellectual abilities, as well as documents detailing school achievement and discipline, positive community or extracurricular activities, employment, and prior police and court involvement.

**e. Pre-Trial Motion Practice**

In addition to the duties in *2011 Guideline 5*, counsel should make all colorable motions. Motions should be made in writing.

**f. Alternative Resolutions**

- (i) Counsel shall be knowledgeable about entry requirements, the operation, and the benefits and risks of alternative resolution programs in the jurisdiction.
- (ii) Counsel shall advise the client about alternatives in developmentally appropriate language and the consequences of any statements or agreement required for entry into the alternative program.
- (iii) Counsel shall be informed about juvenile records which may be created by the client's participation in any non-adjudicatory solution. Counsel must advise the client of any issues related to immigration, driver licensing, sex offender registration, ownership of firearms, and possible enhancement of any future sentencing for subsequent juvenile and adult offenses.
- (iv) Counsel should advise the client that there may be other possible consequences including licensing, housing, education, and government benefits, that can be affected by an alternative resolution. When possible, counsel should refer the client to other resources to assist with these possible consequences.
- (v) When consistent with the client's expressed interest, counsel should advocate for diversion, informal resolution, or referrals outside of the traditional court process.

**g. Plea Negotiations**

- (i) Counsel shall communicate every plea offer to the client.
- (ii) During plea negotiations, counsel shall zealously represent the expressed interests of the client, including advocating for some benefit for the client in exchange for the plea.
- (iii) Counsel shall protect the client's right to be provided adequate time to consider the plea and alternative options.
- (iv) Counsel shall communicate with the client to identify the consequences of a conviction that are most important to the client. In addition to the duties in *2011 Guideline 6*, counsel shall explain, in developmentally appropriate language, the strengths and weaknesses of the prosecution's case, the benefits and consequences of accepting a plea agreement, and any rights the client may be forfeiting by pleading guilty. Counsel shall work to help the client make an informed decision about whether to accept a plea offer.
- (v) Counsel should seek in any plea negotiations to address the consequences that matter to the client.

- (vi) Counsel must advise the client of any issues related to immigration, driver licensing, sex offender registration, ownership of firearms, and possible enhancement of any future sentencing for subsequent juvenile and adult offenses.
- (vii) Counsel should advise the client that there may be other possible consequences including licensing, housing, education, and government benefits, that can be affected by a guilty plea. When possible, counsel should refer the client to other resources to assist with these possible consequences.
- (viii) Counsel should attempt to effect a resolution that minimizes or avoids these consequences.

**h. Obligations When the Client Decides to Accept a Plea Offer**

In addition to the duties in *2011 Guidelines* 6.3 and 6.4, counsel is obliged to ensure that the client's acceptance of the plea is voluntary and knowing, and reflects an intelligent understanding of the plea, including the rights the client forfeits by pleading guilty.

- (i) Counsel shall explain to the client, in developmentally appropriate language, the process for making an admission or plea, the questions the court will ask in the colloquy, and the rights that the client will forfeit. Counsel shall also inform the client that, notwithstanding the client's decision to accept the plea, the court may reject the plea agreement if the court disagrees with the terms of the plea or determines the waiver of rights has not been knowing, intelligent, and voluntary. Counsel shall explain the consequences of the court's rejection.
- (ii) If, during the plea colloquy, it becomes clear that the client does not understand the colloquy, counsel shall request a recess or a continuance to assist the client. When the client makes a plea or admission, counsel shall ensure that the full content and conditions of the plea agreement are placed on the record.
- (iii) If the client may be taken into custody after the plea, counsel shall prepare the client and be prepared to offer an appropriate alternative to the court.

**i. Obligations Regarding Revision, Interlocutory or Collateral Review, Writs, and Stays**

Counsel should strategically pursue motions for revision from commissioner decisions and interlocutory appeals and collateral reviews of rulings adverse to the client. Counsel should request a stay when appropriate.



#### **4.13 Adjudicatory (Fact-finding) Hearing**

##### **a. Prepare Client for Adjudicatory Hearing**

In addition to the duties in *2011 Guideline 7*, counsel shall, prior to the adjudicatory hearing, communicate to the client, in developmentally appropriate language, what is expected to happen before, during, and after the hearing. Counsel should provide the client with clear instructions regarding appropriate courtroom attire and conduct.

##### **b. Adjudicatory Hearing**

As of this publication date, Washington State juvenile trials are bench trials, with the judge playing a dual role as the finder of fact and the interpreter of law. RCW 13.04.021. Counsel should consider moving for a jury trial and challenging the denial of juries. In the event juries are provided, counsel needs to be familiar with preparing for and conducting jury trials.

Counsel shall always be conscious that all information in pre-trial hearings and pleadings may adversely influence the judge. When pre-trial information has potentially biased a judge's view of the client's culpability sufficient to interfere with the client's due process rights, counsel may consider moving for the judge's recusal.

The duties to prepare, present the defense case, including opening and closing statements, and all other duties in *2011 Guideline 7*, other than those relating to the selection of a jury and jury instructions, apply to bench trials in juvenile court proceedings.

##### **c. Client's Testimony**

- (i) The decision to testify rests with the client. Counsel shall communicate, in developmentally appropriate language, the advantages and disadvantages of testifying, including the risk of self-incrimination and the effect in other proceedings.
- (ii) Counsel shall be familiar with state law regarding examination of the client, including whether it permits the use of prior juvenile adjudications to impeach the client.

##### **d. Request of Specific Findings of Fact and Conclusions of Law**

Counsel shall make a clear record for appeal. Counsel should consider proposing findings of fact and conclusions of law and/or making objections to findings and conclusions proposed by the prosecutor, and should ensure that any proposals and objections are included in the record.

#### **4.14 Disposition**

##### **a. Role of Counsel at Disposition**

In addition to the duties in *2011 Guideline 8*, counsel shall advise the client, in developmentally appropriate language, about disposition sentencing guidelines, potential out of home placement

options, including group homes, foster care, residential programs and treatment facilities. Counsel should visit programs and facilities to be able effectively to advise a client or advocate on the client's behalf.

Counsel shall be aware of the different assessment tools and other evaluative instruments used to inform dispositions. Counsel shall be prepared to challenge the validity and reliability of risk assessment tools, both facially and as applied to the client, where appropriate. Counsel shall understand the mechanics of such instruments and keep abreast of challenges to their application to the client. If appropriate, counsel should use expert witnesses to challenge the use of, validity of, and conclusions drawn from risk assessments and/or other evaluative instruments for disposition decisions.

**b. Role of Counsel When Preparing Client for the Disposition Process**

- (i) Counsel shall advise the client, in developmentally appropriate language, about the disposition process, the dispositions the court will consider, and the consequences of failure to comply with a disposition order.
- (ii) Counsel shall explain to the client what likely will happen in interviews with probation officers developing a social history report, as well as psychological or other evaluative testing ordered by the court or requested by counsel. Counsel should attend court-ordered predisposition interviews.
- (iii) Counsel shall be familiar with and explain in developmentally appropriate language the use of evaluation instruments and tests.
- (iv) Counsel shall advise the client about standard disposition conditions the court is likely to impose and challenge their imposition if they are unrelated to the offense or the client's needs;
- (v) Counsel shall inform the client of his or her right to speak at the disposition hearing, the potential benefits and detriments of doing so, and the proper decorum and behavior for such hearings; and
- (vi) Counsel shall confer, when appropriate, with the client's parents to explain the disposition process and inquire about the parents' willingness to support the client's proposed disposition.

**c. Role of Counsel in Advocating for a Disposition Plan**

- (i) Counsel shall only recommend a disposition to the court with the client's consent.
- (ii) Counsel shall request an advance copy of any written disposition memorandum submitted by the prosecution or probation department and verify that the information presented is accurate.



- (iii) Counsel should submit an independent written memorandum describing factors in the client's life that address the judge's anticipated concerns and point out how the defense plan contributes to the client's rehabilitation. The memorandum should highlight the client's strengths and establish the circumstances under which the client is most likely to succeed.
- (iv) Counsel shall submit any evidence in support of the defense's proposed disposition plan, including recommendations from a social worker when appropriate.
- (v) Counsel shall confirm that the client has received credit for time served.
- (vi) Counsel should address the appropriateness of any court-ordered educational, vocational, and rehabilitative services, as well as the location and duration of the services, the place of confinement if any, eligibility for aftercare/parole if appropriate, requirements for evaluations or treatment, and/or assignment to drug rehabilitation.
- (vii) Counsel shall advocate, consistent with the client's wishes, that any court-ordered services are provided in the least restrictive setting.

**d. Counsel's Obligation to Review Court Ordered Disposition Plan and the Consequences of Disposition with the Client**

- (i) Counsel shall carefully review the disposition order to make sure that it contains all the provisions of the disposition plan and that it accurately reflects the court's verbal order. Counsel shall verify that it properly records detention credits, plea agreements, opportunities for restitution hearings, and information that may favorably affect the client.
- (ii) Counsel shall review the written order with the client, in developmentally appropriate language, and advise him or her of the nature, conditions, obligations, duration, and consequences of the disposition. When the client agrees, counsel should seek to inform the client's parent of the disposition conditions, obligations, duration, and consequences of the disposition.
- (iii) Counsel shall notify the client of the right to move for revision of a commissioner's ruling when that is available and of the right to appeal. Counsel should seek a timely revision or pursue an appeal, with permission from the client, if the order fails to meet the state's obligation to provide for educational and special needs.
- (iv) Counsel shall seek information about the requirements of any program or service ordered and explain to the client what the programs require.
- (v) Counsel shall be aware of statutes and case law regarding the disclosure of the client's record and the legal mechanisms available to limit or foreclose distribution of the client's arrest and court records. Counsel shall advise the



client on the timing and procedure for moving to limit disclosures where disclosure is not automatically prohibited.

**e. Obligations to a Client Awaiting Placement**

- (i) Counsel should pursue efforts to keep the client in the least restrictive environment prior to placement in a treatment setting.
- (ii) Counsel should be prepared to advocate for the client who is being held in secure confinement while awaiting placement; and if the placement does not occur as ordered, counsel should move for the client's release. If counsel does not prevail, counsel shall seek provision of interim services for the client's educational, physical, mental health, and other needs.

**4.15 Post Disposition Matters**

**a. Trial Counsel's Obligations Regarding Appeals**

- (i) In addition to the duties in *2011 Guideline 9.2*, counsel shall advise the client, in developmentally appropriate language, of the right to appeal and the process of the appeal. Trial counsel shall explain to the client the consequences of any decision to waive the right to appeal.
- (ii) When the client chooses to appeal, trial counsel shall file a notice of appeal and preserve the client's right to appeal, including presenting a motion to proceed in *forma pauperis*. Trial counsel shall assist the client in obtaining appellate representation.
- (iii) Trial counsel shall be familiar with and follow rules for obtaining a stay of the disposition order pending appellate review. Trial counsel shall discuss with the client whether to seek a stay and shall request one should the client desire a stay.
- (iv) When the client at the time of disposition is unable to decide whether to appeal, trial counsel shall make clear to the client the deadline for filing the appeal, seek a decision from the client in time to meet the deadline, and be prepared to file the appeal should the client decide to file the appeal.
- (v) To preserve issues for appeal, counsel should consider proposing findings of fact and conclusions of law and/or making objections to findings and conclusions proposed by the prosecutor or entered by the court, and should ensure that counsel's proposed findings, conclusions, and objections are included in the record.
- (vi) As of publication date of these guidelines, juveniles cannot be assessed costs of appeal. Counsel should verify that this remains true and explain to the client that there will be no costs for the appeal unless this has changed. The decision regarding whether to appeal belongs to the client.

**b. Obligations of Trial Counsel to Appellate Attorney**

Trial counsel should be available to appellate counsel to answer questions and issues regarding the appeal and to provide documents as requested by the appellate counsel to the extent authorized by the client.

**c. Role of Counsel to Clarify Scope of Any Post Disposition Representation**

Counsel shall be clear with the client what the scope of post-disposition representation will be, if any. When possible and when the client requests, counsel should assist the client in efforts to ensure that the client is receiving the services ordered by the court.

**d. Role of Counsel in Addressing Possible Post-Disposition Challenges**

While the client is a juvenile, counsel should help the client to obtain representation on issues raised by the client that relate to the validity of the conviction and could lead to a motion to set aside the conviction or a *habeas corpus* petition or a personal restraint petition, as well as issues relating to the safety of the client or conditions of the client's confinement.

**e. Role of Counsel at Post-Disposition Trial Court Hearings**

Ideally, the same lawyer should represent the client from arraignment through disposition and any modification and probation violation hearings. To provide continuity of representation, counsel should represent the client in restitution and modification and probation violation hearings. See Guideline 1.3 (b).

**f. Representation at Restitution, Review and Modification Hearings**

- (i) Counsel shall be knowledgeable about current applicable cases and statutes regarding restitution, modification, and probation.
- (ii) Counsel shall provide the same level of zealous representation at restitution, review and modification hearings as counsel would provide for any other proceeding.
- (iii) Counsel shall explore the factual basis of the client's alleged failure to abide by conditions of the court's order, including whether the probation officer and designated social service providers have met their obligations to the client.
- (iv) Counsel should be prepared to challenge the client's alleged failure to abide by the court's order in an evidentiary hearing.
- (v) When counsel's investigation reveals that the client's probation officer, service providers, or others subject to the court's order have not complied with the court's order, counsel should either request the court enforce its existing order or propose appropriate modification to the order.



- (vi) Counsel shall explore and offer any available mitigation to explain the client's failure to abide by the order.

**g. Sealing Juvenile Records**

Counsel shall be familiar with the laws governing the sealing of the client's record and the agencies and organizations permitted by statute to have access to the client's arrest and court records. Counsel shall advise the client of processes and resources for sealing juvenile records. If requested, counsel should assist the client with this process whenever possible.

**Guideline 5. Juveniles Facing Adult Prosecution Require Counsel With Special Training and Expertise**

**5.1 Prosecution of Client as an Adult, Specialized Training and Experience Necessary**

- (a) Counsel shall be knowledgeable about statutes and case law governing the decline of a juvenile to adult court for prosecution, including presumptions in favor of or against keeping youth in juvenile court and the burden of proof necessary to overcome such presumptions. Counsel shall be aware of the timing and process of transfer hearings and required findings for decline of jurisdiction to adult court. In jurisdictions in which the attorney handling the decline hearing will also represent the client at any adult court proceedings, counsel shall be familiar with adult criminal court rules, sentencing guidelines, and rules of evidence
- (b) Counsel shall be familiar with the extent to which adult facilities provide juvenile clients legally mandated safety protections, medical and mental health care, rehabilitative treatment, and mandatory education services, and advocate for the client to receive appropriate services;
- (c) Counsel shall pursue specialized training, including in the areas of child and adolescent development, to ensure the requisite level of knowledge and skill to represent a client in a decline hearing or in adult court, and be familiar with developmental issues that may affect competence to stand trial;
- (d) Unless counsel has been sole or lead counsel in a previous decline case, counsel shall be supervised by or consult with an attorney who has experience representing juveniles in decline hearings; and
- (e) Counsel representing a client facing a possible life sentence should be familiar with current resources regarding representation of a juvenile client facing a possible life sentence, including lawyers who are experienced in representing such clients and the expert witnesses available.

**5.2 Obligation of Counsel to Inform the Client of the Possibility of Adult Prosecution and Potential Consequences**

- (a) Counsel shall advise a client, using developmentally appropriate language, about the procedures that may lead to adult prosecution; and



- (b) Counsel shall explain to the client or, if counsel does not have experience with adult felony practice, ask an attorney who has such experience to explain to the client, the consequences of prosecution in adult court, including possible sentences, likelihood of deportation if the client is not a citizen, and direct and indirect consequences.

### **5.3 Obligation to Investigate Factors Relating to Possible Adult Prosecution**

- (a) Counsel shall conduct a timely and thorough investigation of the allegations and the client's background;
- (b) Counsel shall assess what factors weigh for and against decline to adult court and shall investigate the case accordingly; and
- (c) Counsel shall promptly compile and coordinate all evidence and information bearing on the decline decision, including mitigation information such as educational and mental health and developmental history, case law and research regarding adolescent development.

### **5.4 Duty to Advocate for Client's Expressed Interest Regarding Decline**

- (a) After consultation with the client, counsel shall develop cogent arguments that support the client's expressed interests;
- (b) Counsel shall advocate for the client's expressed interests regarding jurisdiction to prosecutors and probation officers. This obligation applies both when a decline proceeding is possible in juvenile court and when counsel is able to advocate for the client before the prosecutor has made a decision about direct filing in adult court when direct filing is possible;
- (c) When the client seeks to remain in juvenile court, counsel's pleadings during the decline proceeding shall specify with particularity the grounds for opposing adult prosecution, including, but not limited to:
  - (i) the nature of the offense;
  - (ii) the prosecutor's failure to establish probable cause;
  - (iii) the client's amenability to rehabilitation in the juvenile system;
  - (iv) information concerning adolescent development as it relates to the client;
  - (v) the client's incompetence to proceed in adult court; and
  - (vi) other criteria established by case law and statute.
- (d) If the prosecutor ultimately files charges that could lead to adult prosecution, and the client has sought to remain in juvenile court, counsel should advocate to the

prosecutor either to amend the charge to one that would permit proceeding in juvenile court or to waive application of exclusive adult criminal jurisdiction and to seek the court's approval of that waiver;

- (e) Counsel shall obtain and review any report developed by the probation officer prior to the hearing;
- (f) Counsel shall consider use of expert witnesses to address issues such as the client's capacity to proceed in adult court, amenability to rehabilitation in juvenile court, and related developmental issues;
- (g) At the hearing, counsel shall:
  - (i) Challenge any defect in the charges that would deprive the adult court of jurisdiction;
  - (ii) Raise any credible facial or "as applied" state or federal constitutional challenges to adult prosecution; and
  - (iii) Present all facts, mitigating evidence, and testimony that may convince the court to keep the client in juvenile court, such as the client's amenability to treatment, amenability to rehabilitation in juvenile court and related developmental issues, the availability of tailored treatment options in juvenile court, and immigration and significant direct and indirect consequences.

#### **5.5 Preserve the Client's Opportunity to Appeal a Judicial Decision to Prosecute in Adult Court**

- (a) Counsel shall confirm that all hearings are recorded. Counsel shall adequately preserve the record for appeal;
- (b) Counsel shall apprise the client, in a timely manner and using developmentally appropriate language, of the opportunity and procedures to appeal a judicial decision to prosecute the client in adult court;
- (c) Counsel shall comply with Guideline 4.15 above, concerning advising the client and perfecting appellate rights. Counsel shall adhere to statutory requirements for the timing and/or perfecting of the appeal of the judicial decision to prosecute the client in adult court. When appropriate, counsel should move for interlocutory appeal of the judicial decision in a timely manner to reduce the length of time a detained client spends incarcerated and to avoid the removal of the client to an adult jail; and
- (d) Counsel shall consider proposing findings of fact and conclusions of law and/or making objections to findings and conclusions proposed by the prosecutor or entered by the court, and shall ensure that counsel's proposed findings, conclusions, and objections are included in the record.



## **5.6 Obligations Following a Determination to Prosecute the Client in Adult Court**

- (a) Upon determination that the client will be prosecuted in adult court, counsel, consistent with the client's expressed interests, shall zealously oppose placement of the client in adult jail or detention. Counsel shall be aware of and raise the risks associated with incarcerating young people among adults, and advocate for alternative placements in the juvenile justice system and/or release of the client on personal recognizance or on bail;
- (b) If the case is transferred to adult court and the client is assigned a different lawyer, counsel should work closely with the new attorney to ensure a smooth transition of the case; and
- (c) When a client is tried in adult court, in addition to complying with the *2011 Guidelines*, counsel should use child developmental research and case law supporting the lessened culpability of adolescent offenders in arguing intent, capacity, and the appropriateness of rehabilitative sentencing options and use appropriate expert witnesses.

## **Guideline 6. Special Obligations of Counsel Representing Juveniles on Appeal**

- a. Representing juveniles on appeal presents many of the same concerns as at fact-finding, such as the need to employ developmentally-appropriate language with juvenile clients and to recognize that counsel's legal obligation is to represent only the expressed interests of the client.
- b. Because juvenile jurisdiction is not necessarily extended by filing an appeal, Counsel shall determine whether and when the client has turned 18, and if jurisdiction can no longer be extended, be aware of what issues could expose the client to adult prosecution.
- c. Counsel shall address juvenile appeals as quickly as possible, and when appropriate under the rules, seek accelerated review.

## **Guideline 7. Public Defense Counsel Have Special Responsibilities to Improve the Juvenile Criminal Justice System.**

### **7.1 Role of Counsel in Systemic Issues**

- (a) Public defense counsel who have a significant juvenile court practice are in a unique position to identify and challenge any harmful or unlawful conditions and systemic issues adversely affecting both their clients and other juveniles, particularly, but not limited to, issues involving the right to counsel, the right to effective assistance of



counsel, the unlawful shackling of juveniles in court, and harmful or unlawful conditions of confinement; and

- (b) In addition to representation of individual clients, attorneys who have a significant juvenile court practice should consider advocating to change practices or orders that abridge or threaten to abridge the constitutional, statutory, or court rule rights of juveniles appearing in the courts in which they practice. Compare, *Vovos v. Grant*, 87 Wn.2d 697, 700-01, 555 P.2d 1343, 1345-46 (1976).

## **7.2 Sharing Information and Developing Alliances**

When counsel becomes aware of systemic concerns affecting issues such as right to counsel, harmful or unlawful conditions of confinement of juveniles, or shackling, counsel should consider sharing information and developing alliances with bar associations, prosecutors, law enforcement, judges, community groups, and others to correct those conditions.

The Supreme Court  
State of Washington

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July 10, 2014

Jacqueline McMurtrie, Chair  
Washington State Bar Association  
Council on Public Defense  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539

Dear Ms. McMurtrie:

The Washington Supreme Court has discussed the recommendation coming from the National Center for State Court Western Region Juvenile Reform Summit, regarding the need to develop public defense performance guidelines for juvenile offender cases and would like the Counsel on Public Defense (CPD) to develop a proposal for guidelines for consideration by the Washington State Bar Association Board of Governors.

Members of the court who attended the summit were impressed by the presentation on juvenile offender defense standards prepared by the National Juvenile Defender Center. Because the CPD has already developed Performance Guidelines for Criminal Defense Representation in conjunction with the Indigent Defense Standards, we think the CPD is well-positioned to advance a similar document that can guide public defense attorneys who handle juvenile offender matters. The court believes that defense performance guidelines specific to juvenile offender cases will improve both the training of new defenders and courtroom performance of current defenders.

Please let me know if you have any questions or concerns about the court's request.

Sincerely,

Barbara A. Madsen  
Chief Justice

c: Justices  
George Yeannakis, TeamChild  
Joanne Moore, Director, Office of Pub. Defense  
Callie Dietz, Administrator, Admin. Office of Courts

**From:** "Fairhurst, Justice Mary" <[Mary.Fairhurst@courts.wa.gov](mailto:Mary.Fairhurst@courts.wa.gov)>

**Date:** May 4, 2017 at 9:49:16 AM PDT

**To:** "Boruchowitz, Robert" <[boruchor@seattleu.edu](mailto:boruchor@seattleu.edu)>

**Cc:** Eileen Farley <[Eileen.Farley@nwaj.org](mailto:Eileen.Farley@nwaj.org)>, Diana Singleton <[dianas@wsba.org](mailto:dianas@wsba.org)>, Rodrigues Daryl A <[Daryl@Rodrigues.us](mailto:Daryl@Rodrigues.us)>, SUP DL - JUSTICES <[SUPDL-Justices@courts.wa.gov](mailto:SUPDL-Justices@courts.wa.gov)>, SUP DL - ADMINISTRATIVE ASSISTANTS <[ADMINISTRATIVEASSISTANTS@courts.wa.gov](mailto:ADMINISTRATIVEASSISTANTS@courts.wa.gov)>

**Subject:** RE: Juvenile Performance Guidelines

Bob, Thank you for the update and for the dedication and hard work by you and your committee. The court looks forward to receiving your report when it is ready for presentation to us. I am cc'ing the justices and their assistants so they too are apprised of the status. Thanks. Mary

Mary E. Fairhurst

Chief Justice

360 357-2053

[Mary.fairhurst@courts.wa.gov](mailto:Mary.fairhurst@courts.wa.gov)

**From:** Boruchowitz, Robert [<mailto:boruchor@seattleu.edu>]

**Sent:** Thursday, May 4, 2017 9:19 AM

**To:** Fairhurst, Justice Mary <[Mary.Fairhurst@courts.wa.gov](mailto:Mary.Fairhurst@courts.wa.gov)>

**Cc:** Gordon McCloud, Justice Sheryl <[J\\_S.GordonMcCloud@courts.wa.gov](mailto:J_S.GordonMcCloud@courts.wa.gov)>; Eileen Farley <[Eileen.Farley@nwaj.org](mailto:Eileen.Farley@nwaj.org)>; Diana Singleton <[dianas@wsba.org](mailto:dianas@wsba.org)>; Rodrigues Daryl A <[Daryl@Rodrigues.us](mailto:Daryl@Rodrigues.us)>

**Subject:** Juvenile Performance Guidelines

**Dear Chief Justice Fairhurst:**

**I am writing to report on the progress of the Council on Public Defense regarding developing proposed Juvenile Performance Guidelines as requested by former Chief Justice Madsen.**

**Our Standards Committee has been meeting frequently and we have completed a draft that we plan to refine and send to stakeholders for comment later this month. As chair of the committee, my plan is to present the draft to the full CPD at the June meeting for discussion. I anticipate that the CPD will want to have two meetings to discuss the Guidelines before voting on sending them to the WSBA Board of Governors for approval. My hope is that the BOG would approve them in August or September and forward them to the Court at that time for your consideration.**

**While it has taken much longer than I had hoped or anticipated to complete this project, we have resolved a number of issues on which there were differing opinions, and I believe we will have a strong document to present first to the BOG and then to the Court.**

**Please let me know if you have questions. Thank you for your consideration.**

Sincerely,

Bob Boruchowitz



# **Feedback on Draft Juvenile Guidelines**

## Juvenile Guidelines Feedback

Updated 12/6/16

### Overall

**Juliana Roe (Washington State Association of Counties):** In your letter to our office, you point out that your office worked on developing and establishing the standards for indigent defense services that were eventually adopted by the Supreme Court. In creating and adopting these standards without providing a funding source to support them, you increased county costs for indigent defense services by 50%. Criminal justice costs make up 73% of county general fund expenses, of which indigent defense costs are included. If you choose to address juvenile matters in the same manner, the Washington State Association of Counties (WSAC) asks that you include funding for such services. Otherwise, WSAC will oppose the adoption of these guidelines.

**Kathleen Kyle (Defenders):** I am the Managing Director at the Snohomish County Public Defender Association (SCPDA). I join in Eileen Farley's Memorandum to the Council on Public Defense regarding concerns related to scope of representation and challenges to systemic issues. SCPDA attorneys are often encouraged to follow their assessment about the scope of work required in an individual case and/or work on systemic change. However, these actions cannot be at the expense of the essential functions outlined in the job description. I agree to Ms. Farley that creating additional obligations undercuts the caseload standards. To a large degree, I agree with Bob Boruchowitz's memorandum. To the extent that the guidelines could support these actions without mandating them on individual public defenders, it may be helpful to have the guidelines validate that these functions are very related to improving case outcomes.

### Guideline 1

None

### Guideline 2

**Jeri Chavez (Skagit County Public Defender) Re 2.4:** 2.4(d) indicates: "If counsel decides to proceed with a competency hearing, counsel must secure a qualified, independent expert to evaluate the client's competence." I understand the intent, to strongly encourage defense experts, but I think this sentence is going too far in removing the professional judgment of the attorney.

I had a case where the expert from Child Study and Treatment indicated that my client was not competent and not restorable due to developmental delays. I had collateral witnesses and documents to support this (IEP, teachers, family, medical doctor, reports from children's hospital). The expert from CSTC was not my independent expert, but they were saying everything I could hope an independent

expert would say. Yet under this standard, I must still retain an independent expert to confirm the expert from CSTC? Even though my client was in custody and doing so would have delayed his hearing.

This seems contrary to the guiding principles, which include: "The steps actually taken should be tailored to the requirements of a particular case. The guidelines recognize that representation in criminal and juvenile offender cases is a difficult and complex responsibility. Attorneys must have the flexibility to choose a strategy and course of action that competently and diligently pursue the objectives of representation." It seems it might be more appropriate to say, If counsel decides to proceed with a competency hearing, counsel must secure a qualified, independent expert to evaluate the client's competence "if counsel is not in agreement with the Court's expert."

As these rules are being finalized, the drafters should be careful not to take away the ability of the attorney to use independent judgment to decide what is best in each case, in consultation with the client. Every case and every client is unique.

**Guideline 3**

None

**Guideline 4**

None

**Guideline 5**

None

**Guideline 6**

None

**Guideline 7**

None

**Guideline 8**

None

**Guideline 9**

**Paula Plummer (atty) Re 9.1:** Our payment in Skagit is by the hour (\$65/hr) and in San Juan, per hearing (\$345). There is no compensation authorized for training or advocacy for/by conflict attorneys. I have been a conflict attorney or pro bono since the early 1990's, and I do participate in training and system/community advocacy, but lack of compensation is a big barrier to effectiveness.



Paula Plummer (atty) Re 9.2, 9.3, and 9.4: see above (no 9.3 in the undated proposed guidelines I received)

### **Guideline 9 - Scope, Duration, and Representation**

Jeri Chavez (Skagit County Public Defender) Re Scope and Duration: My response for duration and scope are combined.

I have a concern regarding scope and duration. I am a fulltime public defender in Skagit County. I am a county employee. I do not carry my own malpractice insurance. I am only insured to do work within the scope of my county duties. I do not have an objection to the WSBA making a requirement that my job duties as a juvenile public defender are expanded in scope and duration. If it were a requirement, if shall was the language used, then that additional work would be part of my county job duties, and would be covered by the counties insurance. My concern is, when additional work is suggested, such as the following language used in the guidelines, “when possible,” “should help,” and “should assist.” Without a directive, a shall, or a must, it is unclear if this work is within the scope of my duties as a county employee, and therefore unclear if I am practicing without malpractice insurance. For public defenders who hold contracts or who work for nonprofits, this may not be a concern. But for a fulltime county employee, it raises an issue.

I also share Ms. Farley’s concern that writing the standards in a way that is merely aspirational makes them powerless. But, I do not necessarily think that means the concept of enlarged scope and duration of representation should be deleted. The language should be cleaned up, making expanded scope and duration of representation mandatory in certain circumstances.

For example, in reference to 1.6, the language could be clarified to indicate the obligation to investigate and ensure the client’s safety is to a current client who is currently or recently in the facility or still under the authority of the person or person who committed the harm. As with other court rules, comments could be added. This would create a mandatory duty to ensure the safety of a client currently or recently in detention, but not to investigate past misconduct alleged against an officer a year ago, that is irrelevant to the current case or the client’s current safety.

I support and would encourage the WSBA to enlarge the scope and duration of a juvenile attorney’s representation, but urge the bar to make the expansion clear, and mandatory.

My concern is not unjustified. I have assisted a former client in attempting to seal a case (in an adult proceeding). In response to my action, the prosecutor’s office did indicate that they believed I was acting outside the scope of my duties, and may contact the civil prosecutor and/or HR due to my actions. County public defenders should not be working in fear of negative employment action due to upholding these standards.

Another reason to have clear, understandable language, is that people other than attorneys will be interpreting it. I do not decide who I represent. Clients go to an independent office, Assigned Counsel,

and request an attorney. If juveniles will be entitled to attorneys at county expense in some post-conviction circumstances, this needs to be clear to Assigned Counsel so that they make the referral, rather than sending the client away based on the belief that they are not entitled to an attorney on the post-conviction matter. If the language is left as “should,” “when possible,” and “may,” then juveniles in different counties will receive disparate treatment. Based on these standards, some counties may allow assigned counsel to appoint attorneys on post-conviction matters, while other counties may direct that such appointments not be made.

One last point to keep in mind, is that the further scope and duration are expanded, the further the caseload limits need to be reduced proportionately to allow compliance with the standards.

**Jeri Chavez (Skagit County Public Defender) Re obligation to challenge systemic Issues:** In regard to addressing systemic change, I have the same concerns regarding my liability as a county employee working outside the scope of my duties. I am a fulltime public defender in Skagit County. I am a county employee. I do not carry my own malpractice insurance. I am only insured to do work within the scope of my county duties. I would like to see explicitly authority for a county public defender to raise systemic issues within the scope of their representation. Ms. Farley indicates: “I do not believe the WSBA should or can, tell an attorney that he or she cannot speak on an issue. Just as strongly, I believe the WSBA should not and cannot tell an attorney he or she must speak about an issue.” By not explicitly giving juvenile public defenders authority to raise systemic issues in the standards, our respective counties could tell us that we cannot speak on these issues; that it is not within the scope of our county employment. The case cited may provide standing, but again, if that is outside the scope of my job duties, I am practicing without insurance. If the standards explicitly state that it is within a public defender’s job duties to raise systemic issues when appropriate under their professional judgment, in consultation with their client, then all the standards are doing is allowing us to speak on an issue. I believe it is still up to the attorney, and the client, to decide when this is appropriate. Authority is not a requirement. CrR 3.6 (in conjunction with the constitution) provides authority to file a motion on a search, but does not require that every attorney file a motion on every search in every case. It is still up to the attorney to use their professional judgment.



**MEMO**

TO: Council on Public Defense  
Chair, Eileen Farley

FROM: Kim Ambrose

CC: Bob Boruchowitz

RE: Comments on Proposed Performance Guidelines for Juvenile Defense Representation

DATE: 12/8/16

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First, I side with Bob Boruchowitz on the issue of including an obligation for defenders to participate in systemic change. Second, I have made some suggested changes that I think capture what we have learned from listening to youth who have been processed through the system.

I come at this from the perspective of a juvenile defender (formerly a public defender and one who continues to represent youth through the University of Washington Race and Justice Clinic). In our clinical program we have represented youth at first appearance and post-adjudication or conviction through personal restraint petitions, clemency petitions, motions for relief from registration, motions to seal records and ISRB review hearings. My students have also regularly interacted with incarcerated youth through detention workshops and focus groups at JRA.

My greatest concern is how juvenile defenders have been complicit in a system that systematically incarcerates and labels youth of color at outrageously disproportionate rates. The chasm that I see that exists between defenders and their clients and their families/communities is huge and I think that the guidelines present a unique opportunity to begin to think about how defenders can own their part and do a better job at addressing it.

I am especially concerned in the way that we view our role as defenders in relationship to clients' families and communities. A common theme we hear from youth is that their defense attorneys are often indistinguishable from a justice system that is stacked against them and their families. Historically we have emphasized that defenders need to listen to their clients and not their parents, for good reason. But, I think the unintended consequence has been that many defenders do not listen to clients' families and marginalize them to their clients' detriment. This contributes to the persistent oppression of youth and families of color.

My comments are below.



## **Preface -- ADDITION AT END**

**In addition, the juvenile criminal justice system has, since its inception, disproportionately adjudicated and incarcerated youth of color. Juvenile defenders, as the legal representatives of children in that system, play a critical role in protecting their clients from injustice in their individual cases as well as injustice inflicted by the system and its institutions.**

## **Guiding Principles 11 & 12**

I strongly support guiding principles that recognize that a juvenile defender is uniquely situated to identify and address the systemic problems that affect their clients.

Rationale: If defenders don't raise and challenge barriers to their ability to provide high quality representation – who will? Will young clients on their own? Their families? Will they be heard? With respect to Principle 12, I would assert that failing to identify and challenge systemic barriers results in complicity with and perpetration of an oppressive system.

## **Guiding Principles – ADDITION**

**Juvenile defense requires an understanding of clients' relationships to their family, schools and communities.**

Rationale: One of the key differences between juvenile and adult clients, besides their brain development, is their position in society. Children exist in relationship and subordinate to their parents or guardians and schools that control most aspects of their lives. They are not autonomous. Although they are entitled to autonomy and agency in the attorney-client relationship, they are not the same as adult actors. This is what makes juvenile defense so challenging. I propose adding this to the guiding principles to acknowledge this unique aspect of juvenile defense. Juvenile defenders, who frequently come from different communities and cultures than their clients, must take affirmative steps to understand their clients' communities.

### **1.3 Obligation to Avoid Conflicts of Interest with Parents or Guardian**

Delete “counsel should not permit the parent to direct the representation.”

Add in comment section: **“Counsel should allow clients the opportunity to consult with family members before making critical decisions about their case, including whether to plead guilty.”**

Rationale: This rule generally is necessary to ensure that juvenile defenders understand that their client is the youth, not the youth's parent. In some communities, defenders may listen to parents

and not their clients because parents demand it or it is easier to take direction from them. However, the opposite is also true. Some defenders assert they cannot discuss cases with a client's family and will not talk to parents even where a client would like the attorney to do so. In my experience talking with youth of color who have been adjudicated, one of their main complaints is their lawyer's unwillingness to talk to their family and include their family in advocacy efforts. They also complain that they are not given enough time to consult with family members about plea offers, etc. Removing the line that says "counsel should not permit the parent to direct the representation" does not take away from a lawyer's ethical duty under RPC 1.2 and 1.14 to follow their client's direction, but it de-emphasizes excluding parents from the process where the client will benefit from advice from a trusted family member.

## 2.4 Competence of Youth

- Add a section on "capacity" as well as "competency." (TBD)
- Addition in **bold:**

c. Counsel must assess whether the client's level of functioning limits his or her ability to communicate effectively with counsel, as well as his or her ability to have a factual and rational understanding of the proceedings. When counsel has reason to doubt the client's competence to stand trial, counsel must gather additional information, **including information from family members** and consider filing a pre-trial motion requesting a hearing for competence determination; and

## 6.9 Sealing Juvenile Records

I propose deleting "if requested" and "if possible" and add in **bold:**

Counsel must be familiar with the laws governing the sealing of the client's record, the agencies and organizations permitted by statute to have access to the client's arrest and court records, and direct and indirect consequences of arrest and court records. Counsel must advise the client of available legal processes for sealing juvenile records. ~~If requested, counsel should assist the client with this process whenever possible.~~ **Counsel should make motions to modify restitution and legal financial obligations where necessary in order to effectuate the sealing process.**

Rationale: In light of the recent changes to the sealing laws, which include an administrative sealing process when client turns 18, more is needed here. Right now, defenders are not representing their clients who are denied administrative sealing relief – they are not even showing up – and they should be requesting modifications of restitution and LFOs that can lead to the records being sealed. This will be controversial with those who assert that their duty to represent their client ends after sentencing.

## Guideline 9

In order to instruct defenders further on their role to address the overrepresentation of youth of color I would add language in **bold:**

Public defense counsel who have a significant juvenile court practice are in a unique position to identify and challenge any harmful or unlawful conditions and systemic issues adversely affecting both their clients and other juveniles, particularly, but not limited to, issues involving the right to counsel, the right to effective assistance of counsel, **access to diversion programs and alternatives to secure detention, unlawful police practices, prosecutorial filing standards that have a disparate impact on youth of color,** the unlawful shackling of juveniles in court, and harmful or unlawful conditions of confinement.



Amy I. Muth  
President

Teresa Mathis  
Executive Director

December 8, 2016

TO: WSBA Council on Public Defense  
Via Diana Singleton, CPD Liaison at [dianas@wsba.org](mailto:dianas@wsba.org)

FROM: Amy Muth, President

RE: Draft Performance Guidelines for Juvenile Offense Representation

The WACDL Board of Governors reviewed the proposed juvenile guidelines at our December 3 meeting. We agreed that WACDL does have several concerns — outlined below — regarding the expanded scope of representation.

1. Scope of Representation: If adopted as currently worded, the proposed standards clearly expand the traditional scope of what a public defender working in a juvenile court will be required to do — and do this without providing adequate funding for the additional work. It appears that these guidelines are not aspirational, but are in fact mandates.

Under proposed 1.7(c) the scope of representation is expanded to include ancillary proceedings such as “dependency and status offenses, school discipline and re-entry, driver license suspension hearings, [and] the lawyer should assist the client in obtaining the services of social workers, educational advocates such as team child or other qualified individuals if the client does not already have such assistance and coordinate with the provision of such services. . . .” Currently public defense offices simply do not have the resources to provide representation and training for that representation, in ancillary proceedings.

2. Caseload Limit Standards: The obligation to represent a client “when possible” in collateral matters and post representation would undercut the current juvenile caseload limit standards. The current caseload standards did not assume representation in matters outside the courtroom. Caseload standards are already predicated on the assumption that it is a full-time position. Increasing the obligation to represent juvenile clients in collateral matters beyond what was anticipated when the caseload standards were adopted will dramatically increase the time spent on any given case and thereby reduce the time available for other clients and other cases. In addition, since the needs of each juvenile client are different, it will be difficult to forecast the time and resources necessary to fulfill the increased scope of representation.
3. Funding: These standards also improperly place the burden of demanding adequate funding for the expanded scope of representation on the shoulders of

the front line public defender, rather than the courts and state legislature where it belongs. See proposed guideline 1.2, as well as proposed 1.7 which states “If local custom does not provide for that continuity of representation for appointed counsel, counsel, at the outset of the representation should seek to clarify the scope of appointment and to assure that counsel’s work will be appropriately compensated.”

The burden of ensuring adequate funding is not the obligation of the in-court public defender. The obligation to provide adequate funding is the exclusive purview of the legislature.

While the proposed juvenile performance guidelines — and all of the lengthy discussion that obviously went into drafting them — are to be applauded for defining what a juvenile public defender *should* be, we are concerned that expanding the obligations of representation without first providing for adequate funding is not possible under the current caseload limit standards. In addition, we are concerned that the proposed performance guidelines will require attorneys to provide representation in matters in which they have not been properly trained.

From: Michael Kawamura [mailto:mkawamu@co.pierce.wa.us]

Sent: Thursday, December 8, 2016 10:46 AM

To: Diana Singleton <dianas@wsba.org>

Cc: pthompson@snocopda.org

Subject: Request for feedback regarding proposed modifications to Performance Guidelines for Juvenile Offense Representation

Prior to providing comments regarding the issues in question, I have received the benefit of reviewing two excellent memorandum positions dated September 8, 2016, by Mr. Robert Boruchowitz and Ms. Eileen Farley. Following review of each, along with the proposed Juvenile Guidelines for Juvenile Offense Representation, it becomes evident that distinct positions exist regarding the proposed scope and duration of representation obligations for a defender appointed to represent a juvenile client.

#### Scope of Representation

As a defender office who annually represents thousands of indigent clients we are highly cognizant and versed in understanding the magnitude of hurdles our clients must confront in their daily lives which sometimes cause interaction with the Criminal Justice System. When those hurdles intersect into the traditional aspects of the provision of effective assistance of counsel, defenders are expected to aggressively advocate on behalf of the client. This process creates a clear delineation between mandatory indigent criminal defense services and those which although appropriate and justifiable, do not directly relate to currently recognized liberty interests upon which the use of public funds may be authorized, nor do the proposed modifications provide sufficient guidance as to where and when the scope of representation concludes. Additionally, the referenced laudable and significant additional defender responsibilities proposed are currently not resourced fiscally and in some situations lack staff expertise to perform.

#### Obligation to Challenge Systematic Issues

Within the scope of traditional representation parameters, appointed defenders frequently address systematic issues, case by case, client by client. This task is a full time highly demanding job based in large part on the issues which prompt the proposal at issue. To require more and establish this duty exclusively to one segment of the Justice System via WSBA Performance Standards is problematic.

I am very appreciative of the commitment to justice which the Council on Public Defense promotes as well as your request for comment on these most important of issues.

Very truly yours,

Michael Kawamura, Director

Pierce County Assigned Counsel



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From: "Khandelwal, Anita" <Anita.Khandelwal@kingcounty.gov>

Date: December 9, 2016 at 12:28:00 PM PST

To: "'bonnies@wsba.org'" <bonnies@wsba.org>, "'hedman@defensenet.org'" <hedman@defensenet.org>

Subject: support for WSBA proposed guidelines and guiding principles for juvenile practice

I write on behalf of the King County Department of Public Defense in support of the aspirational language of Guideline 9 on Systemic Issues, and in support of Guiding Principles 11 and 12, which recognize the important of defense attorneys identifying systemic barriers and deficiencies. DPD and its predecessor non-profits have a deep commitment to working on systemic issues impacting children who are poor and are accused of crimes. For example, the non-profits worked with the prosecutor to develop revised guidelines for eligibility to a pre-filing diversion program (180). Initially, that program required that children enroll after responding to a letter that was mailed to them. Failure to respond resulted in filing of charges and an inability to enter 180. Defense attorneys recognized that this practice had a negative impact of poor families with high rates of mobility who might not get the letter or understand it if they did. As a result of defense intervention, the Prosecuting Attorney's Office changed its eligibility and allows children to enroll in 180 even after the filing of charges. The change did not require defense attorneys to invest significant resources, but did create a meaningful change for juvenile defendants.

Because of their youth and inability to advocate for themselves, it is particularly important that children's defense attorneys advocate for them. Nonetheless, the DPD believes that the principle that defense attorneys can and should recognize systemic problems and make efforts to remedy those problems applies for all clients.

Anita Khandelwal

Policy Director

King County Department of Public Defense

401 Fifth Ave., Suite 213

Seattle, WA 98104

**From:** Stone, Gail [mailto:Gail.Stone@kingcounty.gov]

**Sent:** Tuesday, June 13, 2017 1:22 PM

**To:** eileen.farley@nwaj.org

**Cc:** Gordon McCloud, Justice Sheryl <J\_S.GordonMcCloud@courts.wa.gov>; Amburgey-Richardson, Kelley <Kelley.Amburgey-Richardson@courts.wa.gov>; Bonnie Sterken <bonnies@wsba.org>; Diana Singleton <dianas@wsba.org>

**Subject:** Comments to Performance Guidelines for Juvenile Offense Representation

Ms. Farley,

Attached please find comments to the Performance Guidelines for Juvenile Offense Representation the WSBA Council on Public Defense is developing. Thank you for the opportunity to provide our perspective and recommendations.

I am submitting this to the CPC on behalf of the Washington State Supreme Court's Gender & Justice Commission. The Incarcerated Women and Girls Committee, of which I am chair, conducted the review on behalf of the Commission.

The Gender & Justice Commission takes no position on the Guidelines. We limited our review and recommendations to ensuring that issues and impacts based on gender are addressed. We appreciate the CPD's work on that front and are supplementing it with our recommendations.

**Gail Stone**

Law & Justice Policy Advisor

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**King County**

The arc of the moral universe is long, but it bends toward justice.

*Rev. Dr. Martin Luther King, Jr.*



## **Guideline 2. Quality Representation Requires Effective, Developmentally-Appropriate Communication with Juvenile Clients and Specialized Training and Experience**

**2.2 Counsel shall be knowledgeable about, and utilize, current statutes, case law, rules of procedure, rules of evidence, and rules of appellate procedure that affect juvenile practice.**

- a. Counsel shall be knowledgeable about a juvenile's right to counsel, determination of indigency, waiver of counsel, right to effective representation of counsel, and other issues specific to representation of juveniles, such as shackling of juveniles and conditions of confinement;
- b. Counsel should be knowledgeable about the key aspects of developmental science and other research, such as discussed in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Miller v. Alabama*, 567 U. S. 460 (2012), that informs specific legal questions regarding capacities in legal proceedings, amenability to treatment, and culpability;
- c. Counsel should be familiar with and consider the implications of research specific to juveniles, including, but not limited to, brain development, language and literacy development, and the impact of adverse childhood experiences (ACES) [as identified by the Centers for Disease Control and Prevention, <http://www.cdc.gov/violenceprevention/acestudy/index.html>] and the manner in which those experiences are assimilated by the youth;
- d. Counsel should be knowledgeable about any risk assessment tools used by the court, probation officers, and prosecutors;
- e. Counsel should be knowledgeable about issues related to special education;
- f. Counsel should be knowledgeable about the specialized skill of communicating with young clients in a developmentally appropriate and effective manner;
- g. Counsel should be knowledgeable about the consequences of juvenile adjudication;
- h. Counsel should be knowledgeable about the educational and social services protections and resources that are available to youth that are not available to adults; and
- i. Counsel should be knowledgeable about where racial and gender disparities exist in the juvenile justice system, how racial and gender bias affects youth of color, and how racial and gender bias can affect counsel's practice.
- [j. Counsel should be knowledgeable about the effects of trauma and sexual assault on their clients.](#)

## **Guideline 3. Quality Representation Requires That Juvenile Defense Counsel Protect Clients in Need of Special Protection.**

### 3.2 Obligation Regarding Shackling of Juveniles

Counsel should challenge the indiscriminate shackling of clients in the courtroom or in any location that affects communication with the client [or unlawful shackling during labor](#).

## Guideline 4. Each Stage of the Juvenile Criminal Process Requires Diligence, Skill, and Effective, Developmentally Appropriate Client Communication

### 4.12 Investigation, Pretrial Motions and Pleas

#### d. Obtain the Client's Social History

(i) Counsel shall be familiar with rules and procedures for obtaining and using information about the client, including the use of release forms and subpoenas.

(ii) Counsel should investigate the client's social history. This includes acquiring documentation and interviewing persons with information relevant to the client's background, character, and any special education status, learning disability, and adverse childhood experiences, including physical and mental trauma, [and sexual assault](#).

(iii) Counsel should seek records concerning the client's mental health, involvement with the child welfare system, educational background and/or intellectual abilities, as well as documents detailing school achievement and discipline, positive community or extracurricular activities, employment, and prior police and court involvement.

#### h. Obligations When the Client Decides to Accept a Plea

In addition to the duties in 2011 Guidelines 6.3 and 6.4, counsel is obliged to ensure that the client's acceptance of the plea is voluntary and knowing, and reflects an intelligent understanding of the plea, including the rights the client forfeits by pleading guilty.

(i) Counsel shall explain to the client, in developmentally appropriate [and trauma-informed](#) language, the process for making an admission or plea, the questions the court will ask in the colloquy, and the rights that the client will forfeit. Counsel shall also inform the client that, notwithstanding the client's decision to accept the plea, the court may reject the plea agreement if the court disagrees with the terms of the plea or determines the waiver of rights has not been knowing, intelligent, and voluntary. Counsel must explain the consequences of the court's rejection.

(ii) If, during the plea colloquy, it becomes clear that the client does not understand the colloquy, counsel shall request a recess or a continuance to assist the client. When the client makes a plea or admission, counsel shall ensure that the full content and conditions of the plea agreement are placed on the record.

(iii) If the client may be taken into custody after the plea, counsel shall prepare the client and be prepared to offer an appropriate alternative to the court.



**From:** Greg Link <[greg@washapp.org](mailto:greg@washapp.org)>

**Subject:** Junenile Statndards

**Date:** June 14, 2017 at 9:35:43 AM PDT

**To:** "Boruchowitz, Robert ([boruchor@seattleu.edu](mailto:boruchor@seattleu.edu)) ([boruchor@seattleu.edu](mailto:boruchor@seattleu.edu))" <[boruchor@seattleu.edu](mailto:boruchor@seattleu.edu)>

Bob,

I looked over the proposed juveniles standards a few weeks ago and noticed they provide very little particulars for appellate representation of juveniles. Representing kids on appeal presents many of the same issues as at trial, such ensuring the attorney and kid understand the parent cannot speak for the kid and the need to communicate in a fashion appropriate for the kid. And so, the addition of a section on appellate practice could build on much of what is already addressed for other proceedings.

Appeals present additional issues as well. For one, because the jurisdiction statute does not presently allow for extension of juvenile jurisdiction by virtue of an appeal, it is critically important to know if and when the kid has turned 18, and if jurisdiction can no longer be extended to be aware of what issues could expose the kid to adult prosecution. As an example, if I raise an evidentiary claim and get the conviction reversed, if jurisdiction has already lapsed and the State elects to retry the case, retrial will be in adult court. Further, because juvenile sentences are relatively short as compared to adult sentences, it is critically important to address these appeals in an accelerated fashion. But again, I think building on the other proceedings already addressed in the proposed standards, addressing these added issues would not lead to much additional work for the CPD.

To my thinking, as these proposed standards seek to address representation of juveniles in offender proceedings they should at a minimum address all aspects of those proceedings in which the right to counsel attaches. I fear that trying to address juvenile appeals in yet to be adopted general appellate standards will prove unwieldy, as doing so would necessitate the need for appellate standards to separately address the myriad types of specialized appeal such mental health commitments, 71.09 commitments, termination of parental rights, and criminal contempt findings.

I appreciate your efforts on the CPD, and would be happy to discuss my concerns with you further.

*Gregory C. Link*  
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**From:** Jana Heyd [mailto:[Jana.Heyd@opd.wa.gov](mailto:Jana.Heyd@opd.wa.gov)]  
**Sent:** Thursday, June 15, 2017 4:10 PM  
**To:** Bonnie Sterken <[bonnies@wsba.org](mailto:bonnies@wsba.org)>  
**Subject:** FW: Comments on the Performance Guidelines for Juvenile Offense Representation -

Hello Bonnie,

Dae Kim and I are the co-chairs of the Juvenile Law Section of the Bar. Although we did not have a chance to send out the performance guidelines (draft 2) to our entire section, Dae and I wanted to pass on our comments as co-chairs.

We fully support including proposed guidelines 11 and 12 in the “Guiding Principles” section. High quality representation is imperative for our juvenile offender clients. In order to provide that representation, it is crucial that at a minimum, the barriers and deficiencies that impair quality representation should be identified, challenged and remedied. We also support juvenile defense efforts to challenge systemic barriers that lead to disproportionate numbers of underserved youth populations in the juvenile offender system.

Thank you,

Jana Heyd and Dae Kim, Co-Chairs, Juvenile Law Section of the WSBA

Jana Heyd  
Parents Representation Program Managing Attorney  
Washington State Office of Public Defense  
711 Capitol Way South, Suite 106  
PO Box 40957  
Olympia, WA 98504-0957  
(360)586-3164 x 118  
[Jana.Heyd@opd.wa.gov](mailto:Jana.Heyd@opd.wa.gov)

**From:** Dan Connolly [mailto:dan@dan-connolly.com]  
**Sent:** Friday, June 16, 2017 8:37 AM  
**To:** Bonnie Sterken <bonnies@wsba.org>  
**Cc:** Melissa MacDougall <macdougallmlaw@gmail.com>  
**Subject:** Juvenile Performance Guidelines

Good morning,

Thank you for the opportunity to review and comment. I am a juvenile defender in Okanogan County and am writing today in place of Melissa MacDougall, Okanogan County Contract Defender.

I see much emphasis on the use of "developmentally appropriate language" and I couldn't agree more with the emphasis. Other factors help as well, I find, such as toning down the typical attorney attire and making sure there is a friendly, less formal office environment. We can only do our best work when we allow the client to feel comfortable and speak freely about their lives and problems relating to the case.

Thanks again,

Dan Connolly



September 8, 2017

Washington State Bar Association  
1325 4<sup>th</sup> Ave #600  
Seattle, WA 98101

When our firm initially expressed our intent to form a Cannabis Law Section within the Washington State Bar Association, we were unsure how receptive the legal community would be to the idea. First, we reached out to WSBA to inquire about whether the bar association would be open to this idea, and we were met with a very positive response. We then utilized the resources provided online by the WSBA as a guide to put together our letter of intent, bylaws, and budget for the section.

Next, we began the process of collecting the requisite signatures by reaching out to people in our personal networks. Many of these individuals then offered to share our letter of intent and petition with others that they knew. We also attended CLEs for topics that overlap with cannabis law and discussed the possibility of a Cannabis Law Section with other attorneys. During this process we were fortunate to connect with an attorney who had successfully helped with the creation of another section at the WSBA and she offered support for our endeavor. She then reviewed our bylaws and budget and gave us feedback based on her past experience. Following this review, along with reviews by a few others, we submitted our materials to the WSBA to officially begin the process of creating a Cannabis Law Section.

The primary purpose of this section is to connect practitioners in the State of Washington who are interested in learning more about the area of cannabis law. The Cannabis Law Section would not only be a repository of information to guide practitioners through this highly technical area of law, but also a network of highly skilled attorneys working together to interpret the rules and regulations in order to create best practice guidelines for the industry.

Cannabis Law touches on several other areas of the law, from environmental to land use to administrative law, but it does not wholly fit into any of the existing sections within the WSBA. The Cannabis Law Section would be the among the first of its kind. To our knowledge, only one other state bar association has created or endorsed a cannabis law section or practice group. The WSBA would be at the forefront of this nascent, but fast-growing industry, and as other state bar associations contemplate creating sections or practice groups in this industry, they will look to Washington's Cannabis Law Section for guidance.

Thank you for your consideration,

---

Joshua Ashby  
WSBA #46975





## PETITION FOR NEW WSBA SECTION

**Name of Petitioner:** Joshua Ashby

**Contact Information:**

Address: 1715 114<sup>th</sup> Ave SE, STE 212, Bellevue, WA 98004

Phone: (425) 321-0804

**Proposed Name of New Section:** Cannabis Law Section

**Area of Practice:** Cannabis Law, Business Law, Administrative Law, Environmental and Land Use

**Bar Number:** 46975

### 1 – Statement of Purpose and Need

**Brief description of why the section is needed and its goals; include benefit of section to targeted population in the legal community**

The primary purpose of this section is to connect practitioners in the State of Washington who are interested in the area of cannabis law. The Cannabis Law Section would not only be a repository of information to guide practitioners through this highly technical area of law, but also a network of highly skilled attorneys working together to interpret the rules and regulations in order to create best practice guidelines for the industry.

--

## 2 – Section Bylaws

Define scope of jurisdiction; vetted by a minimum of three proposed members of the section

Please see attached.

## 3 – Section Committees (if applicable)

Names, purpose and scope of responsibility

### **CONTINUING LEGAL EDUCATION COMMITTEE.**

The Section shall have a permanent Continuing Legal Education Committee which shall be charged with the duty of organizing and conducting the Section's annual Continuing Legal Education program.

### **NOMINATING COMMITTEE.**

The Section shall have a nominating committee consisting of no less than three section members appointed annually by the Chair or executive committee. At least one member of the nominating committee should not be a current member of the section executive committee



June 28, 2017

Washington State Bar Association  
1325 4<sup>th</sup> Ave #600  
Seattle, WA 98101

**RE: Intent to Form WSBA Section**

This letter of intent serves to confirm our intent to form a Cannabis Law Section within the Washington State Bar Association.


The primary purpose of this section is to connect practitioners in the State of Washington who are interested in the area of cannabis law. The Cannabis Law Section would not only be a repository of information to guide practitioners through this highly technical area of law, but also a network of highly skilled attorneys working together to interpret the rules and regulations in order to create best practice guidelines for the industry.

Additionally, the Cannabis Law Section would be the first of its kind. To our knowledge, no other state bar association has created or endorsed a cannabis law section or practice group. The WSBA would be at the forefront of this nascent, but fast-growing industry, and as other state bar associations contemplate creating sections or practice groups in this industry, they will look to Washington's Cannabis Law Section for guidance.

The following individuals have indicated their support of the formation of a Cannabis Law Section:

<u>WSBA Members</u>	<u>WSBA Number</u>
Craig Coombs	9236
Christopher Larsen	47912
Sativa Rasmussen	51208
Sean Badgley	48126

Thank you for your consideration,

  
Joshua Ashby  
WSBA #46975



WASHINGTON STATE BAR ASSOCIATION  
CANNABIS LAW SECTION  
BYLAWS

ARTICLE I. IDENTIFICATION

1.1 NAME and CREATION

The name of this Section shall be The Cannabis Law Section (the "Section"). The Section is established pursuant to the Bylaws of the Washington State Bar Association (the "Bar").

1.2 PURPOSES.

The purposes of the Section shall be to:

- A. provide continuing legal and other education for its members in areas of common interest to legal professionals interested in cannabis law;
- B. provide opportunities for Section members to become better acquainted with other legal professionals with similar interests;
- C. provide services including education and networking for students interested in one of the fastest growing new practices of law;
- D. provide a forum for the exchange of ideas and discussion about issues of common interest to Section members ;
- E. provide advice to the Bar, as requested , on proposed legislation, court rules, and other matters ;
- F. provide resources and education to legislators and regulators; and
- G. undertake such other services that may be of benefit to the public and the Bar.

1.3 LIMITATIONS.

These bylaws are adopted subject to the applicable Washington statutes and the Bylaws of the Bar.

1.4 PRINCIPAL OFFICE.

The principal office of the Section shall be maintained in the offices of the Bar.

1.5 FISCAL YEAR.

The fiscal year of the Section shall coincide with that of the Bar.

ARTICLE II. MEMBERS AND SUBSCRIBERS

2.1 MEMBERS.

Any Active member of the Bar, Emeritus Pro Bono member (APR 8(e)), Judicial member, House Counsel (APR 8(f)), professor at any Washington law school (whether licensed in Washington or not), or any lawyer who is a full time lawyer in a branch of the military who is stationed in Washington but not licensed in Washington, may be a voting member of the Section and eligible for election to office in the Section upon payment of annual Section dues.

2.2 SUBSCRIBERS.

Any student enrolled in a law school in the State of Washington may enroll as a subscriber upon request and payment of the applicable annual dues charged to law students. Other permitted subscribers include: WSBA members on inactive status, lawyers and other legal professionals not licensed or admitted in Washington, and members of the public. Subscribers have no right to vote as a member. Subscribers shall be entitled to receive publications, such as the newsletter, made available to all Section members and to attend continuing legal education seminars and other events sponsored by the Section upon payment of the applicable fees.

### 2.3 SECTION DUES.

Dues shall be paid annually in an amount to be established by the Executive Committee and approved by the Board of Governors of the Bar. Any person who fails to pay the annual dues shall cease to be a member of the Section. Changes in dues shall be effective for the fiscal year immediately following such determination.

## ARTICLE III. MEETINGS OF THE MEMBERSHIP

### 3.1 EDUCATION.

The Section shall annually sponsor at least one Continuing Legal Education program, and periodically shall publish a Section Newsletter, for the benefit of Section Members, Subscribers, and other members of the Bar and the public, covering topics relevant to the Section's purposes.

### 3.2 ANNUAL MEETING.

The annual meeting of the Section shall be held in conjunction with the continuing legal education program sponsored by the Section, or at another time as determined by the Executive Committee of the Section. The Chair of the Section shall cause notice of the annual meeting to be posted on the WSBA website, published in the Section newsletter, or e-mailed to each member of the Section at least thirty (30) days in advance of the annual meeting.

### 3.3 QUORUM; CONTROLLING VOTE.

The members of the Section present at any annual or special meeting shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required to approve any business brought before such meeting.

## ARTICLE IV. THE EXECUTIVE COMMITTEE

### 4.1 POWERS AND DUTIES.

The Executive Committee shall be vested with the powers and duties necessary for the administration of the affairs of the Section and shall perform duties assigned to it by the Board of Governors of the Bar. The Executive Committee shall have the responsibility to establish other committees of the Section.

### 4.2 COMPOSITION.

The Executive Committee shall be composed of the following persons:

#### A. Officers

1. Chair. The Chair presides at all meetings of the Section and executive committee, and shall have such other executive powers and perform such other duties as are consistent with the Bar and Section bylaws.
2. Secretary. The Secretary shall take minutes at each meeting of the Section and executive committee, and provide approved minutes to the Bar for publication and record retention. In addition, the Secretary shall perform such other duties as may be assigned to him or her by the Chair or the Executive Committee.
3. Treasurer. The Treasurer shall work with the Bar to ensure that the Section complies with Bar fiscal policies and procedures, work with the Bar to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget. In addition, the Treasurer shall perform such other duties as may be assigned to him or her by the Chair or the Executive Committee.
4. Immediate past Chair.

B. At-Large members. At-Large members of the Executive Committee will be voting members.

C. Executive Committee Members may hold more than one office at a time.

### 4.3 TERM.



The term of each member of the Executive Committee shall be two (2) years, beginning on October 1. No person may serve as an At-Large member of the Executive Committee for more than two (2) sequential terms; provided that a person who is appointed to fill the incomplete term of a predecessor may serve two full additional terms and a person who is elected as Chair may continue to serve until the conclusion of the term in which he or she becomes the immediate past Chair.

#### 4.4 REMOVAL.

Any member of the executive committee may be removed by a two-thirds majority vote of the executive committee. Grounds for removal include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.

#### 4.5 CONTROLLING VOTE.

Action of the Executive Committee shall be determined by majority vote of the Executive Committee, once a quorum has been established.

#### 4.6 MEETINGS OF THE EXECUTIVE COMMITTEE.

The annual meeting of the Executive Committee shall be held following the annual meeting of Members. Other meetings shall be held at the time and place as may be designated by the Chair or a majority of the Executive Committee. The Executive Committee is expected to conduct a minimum of three meetings annually.

4.7 COMPENSATION. No salary or compensation for services shall be paid to any member of the Section Executive Committee or member of any committee. Reimbursement may be allowed for travel and other out-of-pocket expenses for members of the Section Executive Committee and members of all Section standing and special committees pursuant to the Bar expense reimbursement policy.

### ARTICLE V. ELECTIONS

#### 5.1 NOMINATIONS.

Nominations and elections for open Executive Committee positions will be held between March and May. The Chair shall appoint a Nominating Committee to nominate one or more persons each open Executive Committee position. The Nominating Committee shall report its nominees to the Executive Committee for approval prior to the annual meeting. Other nominations for the same positions may be made from the floor at the annual meeting. Individuals may nominate themselves.

#### 5.2 ELECTIONS.

The Bar will administer the elections by electronic means and certify results, unless the Section develops its own equivalent electronic election process. In the event of a tie, the winner will be determined by a random tie breaker chosen by the Executive Committee.

#### 5.3 APPOINTMENTS TO FILL VACANCIES.

The Executive Committee shall appoint, by a majority vote, members to fill vacancies on the Executive Committee. When a member is appointed to fill a vacancy in an unexpired term, the member shall do so until the next election when an individual shall be elected to serve the remainder of the vacated term.

### ARTICLE VI. COMMITTEES

#### 6.1 PURPOSE.

The purpose of the Committees shall be to further the interests of the Section within their particular areas of expertise, in coordination with and subject to the control of the Executive Committee.

#### 6.2 CONTINUING LEGAL EDUCATION COMMITTEE.

The Section shall have a permanent Continuing Legal Education Committee which shall be charged with the duty of organizing and conducting the Section's annual Continuing Legal



Education program.

### 6.3 NOMINATING COMMITTEE.

The Section shall have a nominating committee consisting of no less than three (3) Section members appointed annually by the Chair or executive committee. At least one member of the nominating committee should not be a current member of the Section executive committee

### 6.4 ADDITIONAL COMMITTEES.

The Executive Committee may form committees to perform such duties as may be determined by the Executive Committee. Such committees may be permanent committees or formed to perform specific tasks. All committees shall report to the Chair and shall provide regular reports of their activities to the Executive Committee.

### 6.5 COMPOSITION AND GOVERNANCE OF COMMITTEES.

The composition of each committee shall be determined by the Executive Committee who shall appoint a Chair to manage the work of the committee. Committee members may include members of the Section who are not members of the Executive Committee. All committee members shall serve at the pleasure of the Executive Committee.

## ARTICLE VII. AMENDMENTS

These bylaws may be amended at any annual meeting of the Section. These bylaws may also be amended at any regular or special meeting of the Executive Committee; provided that written notice describing the proposed amendments is provided to each Executive Committee member at least seven (7) days in advance of the meeting. No amendment of these bylaws will be effective until approved by the Board of Governors of the Bar.

<b>Budget Proposal</b>				
<b>Fiscal Year 2018 &amp; Fiscal Year 2019</b>				
<b>Proposed Cannabis Law Section</b>				
Account Name	WSBA Account #	2018 Budget	2019 Budget	Please Provide a Detailed Budget Narrative for Each Revenue/Expense Accounts
<b>Revenues</b>				
<b>Operational Revenue</b>				
Section Dues	48200	\$ 1,875.00	\$ 3,750.00	Section Dues (FY18) - The Section anticipates 75 members at \$25.00 membership dues. For FY19, the section anticipates a moderate growth in membership to 150 members.  (FY19) The section anticipates hosting additional mini-CLE with a low-cost tuition fee.
Mini-CLE Revenue	41805	\$ -	\$ 250.00	
<b>Total Revenues</b>		<b>\$ 1,875.00</b>	<b>\$ 4,000.00</b>	
<b>Expenses</b>				
<b>Operational Expenses</b>				
Per Member Charge	58400	\$ 1,406.25	\$ 2,812.50	Per Member Charge - 75 members with Per Member Charge of \$18.75 (FY18) and 150 members with Per Member Charge of \$18.75 (FY19).
<b>Total Operational Expenses</b>		<b>\$ 1,406.25</b>	<b>\$ 2,812.50</b>	
<b>CLE-Related Expenses</b>				
Total Mini-CLE Expense Budget	58620	\$ 100.00	\$ 150.00	Mini-CLE Expense - the section plans to host at least one mini-CLE in the first year with minimal costs toward MCLE accreditation. Possible topic(s) include: Cannabis & Construction Law, Updates to WA State Cannabis law, Cannabis law and FDA/USDA
<b>Total CLE Related Expenses</b>		<b>\$ 100.00</b>	<b>\$ 150.00</b>	
<b>Public Service/Outreach</b>				
Membership & Recruiting Expenses	58350	\$ 100.00	\$ 100.00	Membership & Recruiting Expense - costs to host a new section launch recruitment event
<b>Total Service/Outreach Expenses</b>		<b>\$ 100.00</b>	<b>\$ 100.00</b>	
<b>Executive Committee-Related Expenses</b>				
Executive Committee Expenses	58300	\$ 100.00	\$ 500.00	Executive Committee Expenses - the section plans to meet regularly with a conference call option. Additionally, the section would like to remain apprised of BOG activities and build relationships with members of the BOG.
Conference Calls	50165	\$ 50.00	\$ 100.00	
Attendance at BOG Meeting	58150	\$ -	\$ 250.00	
<b>Total Executive Committee Expenses</b>		<b>\$ 150.00</b>	<b>\$ 850.00</b>	
<b>Total Executive Committee Expenses</b>		<b>\$ 150.00</b>	<b>\$ 850.00</b>	
<b>Total Expenses</b>		<b>\$ 1,756.25</b>	<b>\$ 3,912.50</b>	
<b>Budgeted Net Income (Loss) for FY2018</b>		<b>\$ 118.75</b>	<b>\$ 87.50</b>	



September 26, 2016

To Fellow WSBA Bar Members,

Ashby Law Group is spearheading the creation of a Cannabis Law Section within the Washington State Bar Association. The primary purpose of this section is to connect practitioners in the State of Washington who are interested in the area of cannabis law. The Cannabis Law Section would not only be a repository of information to guide practitioners through this highly technical area of law, but also a network of highly skilled attorneys working together to interpret the rules and regulations in order to create best practice guidelines for the industry.

We are looking for your support in this endeavor. One of the requirements of creating a new practice section within the WSBA is to get at least 150 signatures of support from active bar members. Bar members endorsing the creation of the Cannabis Law Section may, but are not required to, join the section once it is created.

Please sign the attached petition to support the creation of the Cannabis Law Section. If you are interested in joining the section after it is created, please indicate your interest on the petition in the space provided. We believe that the Cannabis Law Section will be a tremendous benefit for Washington lawyers, and we are looking forward to hosting all of you at our kickoff event.

Thank you for your support,





Ashby Law Group



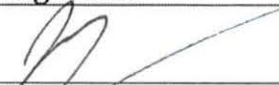
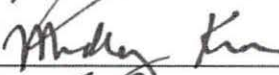





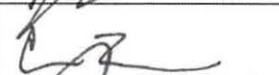

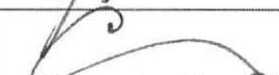

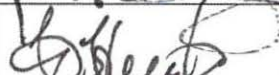
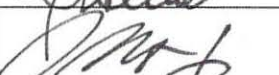
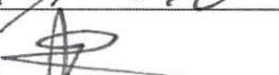
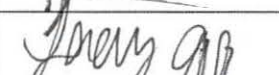
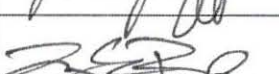
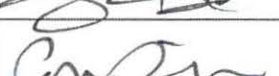
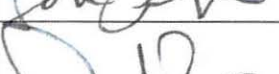



# Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join

### Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Hee-Yang Lee		# 52109	Maybe
Erin Lane		42504	Maybe
Jason Stover		52066	Maybe
Benjamin A. Peterson		30261	NO

## Cannabis Law Section





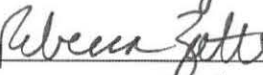
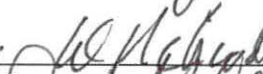

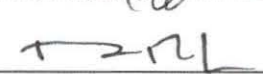

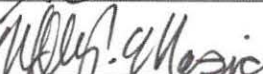
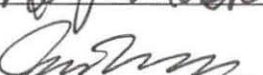
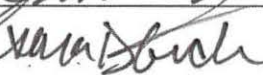

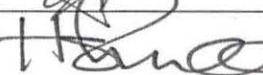


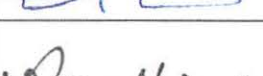


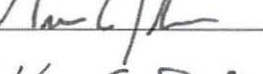
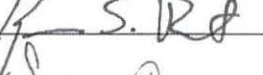
Printed Name	Signature	Bar Number	Intent to Join
Josh Bealey		34312	No
Mickey Krom		7064	?
Richard Stirling		46151	?
Brian Dorsch		46652	?
Andrew Ott		19616	?
Josephine Townsend		31965	maybe
James Thompson		49455	maybe
Carolyn Zorich		27284	No
Jayson Haile		48020	yes
Charles Robbins		29989	yes
GARY L. CARPENTER		4049	No
Kim Hunter		33500	?
D Pat Kozu		32683	?
Chris Bann		32279	?
Lacey O'Hara		45655	No
LIZA BURKE		23138	No
Sarah Clifton		50777	yes
David Ranz		40027	No
Kristin Hanna		21816	maybe
Margaret Vaughn		46179	yes
Sam Méndez		49154	maybe



## Cannabis Law Section

	Printed Name	Signature	Bar Number	Intent to Join
1	Mae Spencer		40963	Yes
2	Karen Burton		49948	<del>Yes</del>
3	ALEXEI GARICK		50962	No
4	Shane O'Heath		39927	No
5	Becky Lambert		89977	No
6	Wear Gerald		6315	Maybe
7	<del>SCHENBERG</del>		3365	No
8	Brandon Feldman		76194	maybe
9	GLEN HOFF		24645	No
10	Aaron Pelley		37484	Yes
11	CRAIG E. COOMBS		7236	No
12	Samuel Brass		<u>call.</u>	Yes
13	Chris Lynch		51315	Yes
14	Dave Carson		48002	Yes/?
15	Martin Marret		40296	Yes
16	Jim Angell		51358	Yes
17	Ned Juneja		91440	yes
18	Ryan Espeland		41805	Yes
19	JOSH ASHB4		46975	YES
19				

## Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Babak Shamsi		43839	No.
Bruce Ridley		8976	NO,
Chris Larsen		47912	Yes
Scott Douglas		27748	yes
Rebecca Zotti		49510	No
DWAYNE RICHARD		2556	NO
RACHEL DASILVA		31706	?
RAMINA PAFEN		30533	NO
ANDRE OLIVIE		42049	NO
Molly Masich		49027	No
Joe Terwen		49124	Yes
SARA D COUCH		42845	No
Tom's GAWAN		32779	No
Holly Skull		41351	Maybe.
Ian Sinclair		49913	maybe
Blythe Phillips		46555	maybe
Rosmary Hewitson		50595	maybe
ALAN D. ROSS		12468	NO
SEAN JOHNSON		46089	Maybe
Karen S. Rupert		19048	Maybe
Satira Rasmussen		51208	Yes




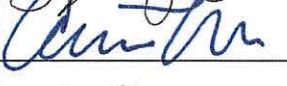

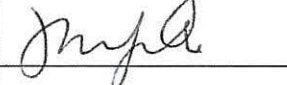




# Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Matthew Akers	<i>Matthew Akers</i>	9414876	Y

## Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Dave Argonien		18827	yes
Jesse Corkin		38226	yes
Shiraz Stefanik		41247	yes
Anne vanLeusen		45794	Yes
Matt Cleary		50198	Yes
Maggie Midlund		39235	Yea!

### Cannabis Law Section


Printed Name	Signature	Bar Number	Intent to Join
Mackenzie Stout		48195	
John D'Arcy		50623	



# Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Anastasia Gilmartin		51161	Yes

Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Gustavo Cueva		48011	No/maybe

# Cannabis Law Section




Printed Name	Signature	Bar Number	Intent to Join
Richard R. Beresford		3873	YES



# Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join (Yes/No)
Michael Royce		47790	Yes

### Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Danielle Hunt		41792	✓ yes
<del>Alyson Palmer</del>	<del></del>	46916	
A. Paul Firvz		45664	

### Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
W. Scott Ralston	<i>W. Scott Ralston</i>	28413	Maybe



### Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
CONNOR O'BRIEN	<i>C O'Brien</i>	40484	YES
Analiza Walton	<i>[Signature]</i>	36754	
DAVID RICE	<i>[Signature]</i>	29180	
Vanessa Wheeler	<i>[Signature]</i>	40205	yes
Richard Hirsch	<i>[Signature]</i>	25940	yes
Nicholas Drake	<i>[Signature]</i>	30688	no
Kalin Bernemann	<i>[Signature]</i>	46503	no
R.C. Combow	<i>[Signature]</i>	21561	
Shannon M'Carthy	<i>[Signature]</i>	43405	yes
Madelene Engel	<i>[Signature]</i>	43884	no



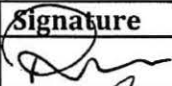
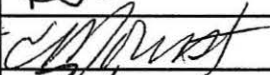
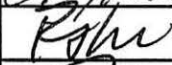
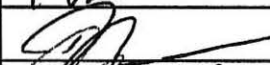
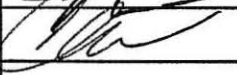




## Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Milena Vill	<i>Milena Vill</i>	51231	Yes
MATTHEW CUMARAN	<i>Matt C</i>	42530	Yes
Chris Wieting	<i>Christopher Wieting</i>	48207	Yes
Samuel Meyler	<i>Samuel Meyler</i>	39471	Yes
Drew Davis	<i>Drew Davis</i>	47297	Yes
Alex Ainsley	<i>Alex Ainsley</i>	48338	Yes
Kristin Raymond	<i>Kristin Raymond</i>	47310	No

### Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Rochelle Nelson		48175	Yes
Catharine Morisset		29682	Yes
Michael Neale		36557	Maybe
Davis Bae		23969	Yes
Cody Nunn		49080	NO

# Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join (Yes/No)
Lorelei Munroe		47401	maybe
Elizabeth Berman Lovell		46428	no











Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Greg Boos		8331	?
Heather Fathali		48146	undecided
Abtin Bahador		48925	undecided







Cannabis Law Section

Printed Name	Signature	Bar Number	Intent to Join
Roger Tomsett		25525	Yes
Cynthia Hordelberg		44121	yes
Eugene Bely		49801	yes
James Barker		47985	yes
Jim Billick		46690	Yes
Sam Mendez		49154	Yes





## Paris Eriksen

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**From:** Shelly Wick  
**Sent:** Thursday, July 13, 2017 12:03 PM  
**To:** Paris Eriksen  
**Subject:** RE: Verify Membership: Forming a Cannabis Law Section

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** Red Category

Active member signatures that match bar numbers = 156



**Shelly Wick | Membership/Systems Manager**

Washington State Bar Association | 206.727.8279 | [shellyw@wsba.org](mailto:shellyw@wsba.org)

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**From:** Paris Eriksen  
**Sent:** Friday, July 07, 2017 11:16 AM  
**To:** Shelly Wick  
**Subject:** Verify Membership: Forming a Cannabis Law Section  
**Importance:** High

Hi Shelly,

I believe you are the correct person to ask. We need to verify that the individuals who signed this petition in support of forming a Cannabis Law Section are, in fact, members of the WSBA? Is this something you/your team can help me with or should I direct my query elsewhere?

The signatures begin on p. 12. Per our bylaws, they need 150 valid member signatures.  
Possible to have these verified by Friday, July 14?

Thank you!!

*Paris*

**Paris A. Eriksen | Sections Program Manager**

Washington State Bar Association | ☎ 206.239.2116 | [parise@wsba.org](mailto:parise@wsba.org) | [sections@wsba.org](mailto:sections@wsba.org)

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