



## Access to Justice Board Agenda

Friday, March 13, 2020 – 10:00 AM to 11:00 AM

CONFERENCE CALL ONLY

1-866-577-9294; Access: 52140#

*Recognizing that access to the civil justice system is a fundamental right, the Access to Justice Board works to achieve equal access for those facing economic and other significant barriers.*

4 min	<b>Welcome and Introductions</b>	Sal Mungia		
1 min	<b>February Board Meeting Minutes</b>	Sal Mungia	Action	<i>pp. 2-4</i>
15 min	<b>ATJ Board Priorities</b>	Judge David Keenan	Action	<i>pp. 5-17</i>
10 min	<b>LFO Remission Rule</b>	Judge David Keenan	Action	<i>pp. 18-21</i>
10 min	<b>Equal Justice Coalition Update</b>	Will Livesley-O'Neill	Report	
10 min	<b>Announcements and Upcoming <a href="#">Events</a></b>	All	Report	



## Access to Justice Board Meeting Minutes February 14, 2020, 10:00 am – 11:30 am

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

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**Present:** Sal Mungia, Judge Laura Bradley, Esperanza Borboa, Hon. David Keenan, Michelle Lucas, Mirya Muñoz-Roach, Hon. Frederick Corbit, Terry Price, and Lindy Laurence

**WSBA Staff:** Diana Singleton, Carolyn MacGregor

**Guests:** Dainen Penta, Dean Jacob Rooksby, Debi Perluss, Jim Bamberger, Nick Larsen

**Center for Justice:** Dainen Penta of the Center for Justice in Spokane shared about the history of the Center and how he landed there, as well as some of the work they do. Jim Sheeran founded the Center in 1999, funding it with his inheritance, and offering re-entry and relicensing programs. The Center is an LFW grantee, and is currently looking for broader support and to build its individual giving program. According to Jim, “community building is a noun and a verb.” With six full-time staff and a few part-time attorneys, the Center is located in a building that shares space with other community organizations and grew to inhabit adjacent buildings on block as well. Also home to a cooperative grocery, the street is known as Social Justice Sesame Street.

Programs and services include:

- Direct service: housing justice, criminal justice and reentry, and driver’s relicensing, including women’s relicensing (empowerment) class.
- Policy advocacy: they sued the city for cleaning up a tent city. They work closely with the office of the police ombudsman; the police guild pushes back. Not very much progress has been made on the Blueprint for Reform; they are watching that.
- Advocacy: working to reform criminal justice system, opposing jail, and customs stops at the Greyhound station.
- Environment: the Center is a fiscal sponsor for Spokane River Keeper.
- Monthly walk-in legal clinic utilizes volunteer lawyers.

**January Minutes:** The minutes were approved without edits.

**Gonzaga University School of Law:** Dean Jacob Rooksby presented an update on equity and justice programs and education at the school. Gonzaga was one of the first law schools in the country to have a clinical legal education program; two new clinics, immigration and LGBTQ rights, have developed since 2018, with the latter opening in fall of 2020. The others are in elder law, federal tax law, environmental law, Indian law, and land use. They also started an incubator program focused on elder law representation, helping new graduates move into private practice.

There is a public service requirement for all law students, part of the social justice culture of the school. He would like to have a pro bono requirement. The Moderate Means program is entirely volunteer: this year 47 students out of 350 are involved, and they filled 42% of requests, 73% of referrals. The program has a

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dedicated space that sits within the Center for Civil and Human Rights, with a focus on racial equity. The school also offers the Thomas More scholarship program which has been around for many years. The scholarship offers a full ride to recipients who are committed to social justice and bring diverse perspective/experience. One spot is reserved for a student from Eastern WA University.

With regard to Inclusivity on campus, there is work to do. They have created all-gender restrooms, and become more thoughtful about the stories that a building tells moved photos of past deans to a side hall. They have worked on accessibility and created a DEI committee. They're working on student body diversity. To help retain students of color, they are looking into starting a mentorship program.

Jim Bamberger asked whether law school is engaging with community. Dean Rooksby said that their programming is publicized outside of GU. They also hope to reach all students, not just those in law. They have 22 fulltime faculty, of which 5 are ethnically diverse including the associate deans. In hiring, the dean has stepped outside of the normal hiring process in order to hire a diverse candidate.

Espy suggested that they offer a legal literacy program in the community. Response: they have touched on that but want to consider doing more.

Terry asked about LGBTQ clinic and what kinds of cases they will handle. Response: the clinic's donor was not satisfied with work other organizations were doing, so asked about getting law students involved. They will work on ID changes, policy, amicus briefs, employment issues, and awareness. Fortunately, the law school did not receive intra-institutional pushback when the clinic was proposed.

Espy asked if the school is involved in youth issues. Response: they are involved with a juvenile records-sealing process, and a street law program for K-12 schools.

**ATJ Board Support for substitute HB 2567:** Sal Mungia moved that Board send letter to the bill's prime sponsor Rep. Thai. Espy seconded the motion. There is a short window for comment on the bill which seeks to remedy the situation regarding access to justice around the courthouse. While primarily affecting POC individuals it also impacts the whole community.

Dave shared that the Superior Court Judges Association is having a difficult conversation around this. There is no money designated for training of courthouse security staff, and the bill may give a false sense of security to folks as it doesn't seem enforceable. Dave himself is in favor, along with GR38.

Jim testified at the House hearing and noted that the judicial branch did not speak with a common voice.

The VJA is neutral and the SCJA supports with reservations. The bill is meant to send a message. Proponents of the bill think it's well-grounded in law but the Federal government does not. Jim is in support.

Terry said that the vote count is split along party lines and it's more important to get the message to the Senate. Espy said that it makes the statement letting all those affected know that people with power are taking their position and have their backs. It will create a sense of empowerment for those communities.

Sal is also concerned about enforceability, but agreed that the statement is important. The motion carried unanimously.

**Conferences of Chief Justices and Court Administrators' Resolution in Support of Implementation of Clear Communications and Streamlined Procedures:** Sal Mungia shared that the former Chief Justice sent the Board a letter asking if the Conference of Chief Justices' resolution in Support of Implementation of Clear Communications and Streamlined Procedures in the Courts is part of ATJ's plain language work. The Board discussed the technology assisted forms (TAF) project, creating a Turbo Tax platform for plain language family law forms. The Board agreed it should let the current Chief Justice know about the TAF work and will align with the resolution.

**Flame of Justice Award for Deborah Perluss:** Sal spoke of her being a warrior of justice. She ruffled feathers when necessary to get the job done and was on the cutting edge of pushing for access to justice with regard to civil rights, disability, and much more. Sal mentioned that it's rare to give out awards but the Board unanimously agreed to present this award to Debi. Fred noted that Debi's work was in the details and that what folks saw was just the tip of the iceberg. Jim saw NJP grow and says that it is the organization it is today in almost every part due to Debi's leadership, vision, tenacity, and assertiveness, and that NJP's existence is great recognition of that.

The meeting adjourned at 11:20 am.

DRAFT

# **PROPOSED ACCESS TO JUSTICE BOARD 2020-22 PRIORITIES**

**PRIORITIES WORKGROUP | FRANCIS ADEWALE – ESPERANZA BORBOA – CATHERINE BROWN – LYNN GREINER – DAVID KEENAN – WITH SIGNIFICANT SUPPORT FROM BONNIE STERKEN, DIANA SINGLETON, AND CAROLYN MACGREGOR**

## **OVERVIEW**

### **i What did the ATJ Board ask us to do?**

- The ATJ Board asked the Priorities Workgroup to propose the Board's two- or three-year priorities, beginning in 2020.

### **i How did the Priorities Workgroup go about doing what the ATJ Board asked us to do?**

- As part of the Priorities Workgroup's assessment of progress towards the 2017-19 priorities, we asked ATJ committee chairs and JustLead representatives to provide input concerning what the Board's 2020-22 priorities should be and created a draft based on that input and discussion within the Workgroup.
- We circulated our draft priorities to Alliance leaders and received 77 survey responses.
- We took the Alliance leaders' feedback, engaged in further discussion, and refined the priorities, resulting in this document.

## **i** Goals

- These are listed according to the stakeholder survey results, and their order is not meant to be a statement from the Workgroup concerning how the Board should prioritize the goals.
- In considering these proposed priorities, the Workgroup urges the Board, consistent with the State Plan, to center its work around race-equity, ensuring that people of color, whether inside or outside of the Alliance, whether client or provider, are heard, understood, and have a meaningful say in the policies that affect their communities.

**1. Ongoing priority:** Work with statewide partners to actively promote and secure state funding to achieve greater access to civil legal aid and stimulate new and effective delivery innovation.

**2. New priority:** Address the civil legal needs of people without lawful immigration status.

**3. Ongoing priority:** Promote systemic and internal race-equity practices, working toward a vision that race or color does not determine the availability and quality of services, fairness of outcomes, or opportunities for communities and individuals.

**4. New priority:** Support and uplift partnerships among legal aid providers and with justice-related and community-based organizations.

**5. New priority:** Support work designed to assist unrepresented litigants.

**6. Ongoing priority:** Promote, support and lead collaborative efforts to bridge the civil-criminal divide.

**7. Ongoing priority:** Support efforts to ensure the effective and appropriate use of technology in the justice system and within the Alliance for Equal Justice in order to provide meaningful and equitable access to justice.

**8. New priority:** Reevaluate organizational identity to develop stronger mission, vision and value statements that align with current priorities.

**1. Ongoing priority: Work with statewide partners to actively promote and secure state funding to achieve greater access to civil legal aid and stimulate new and effective delivery innovations.**

**i** This goal is carried over from the 2017-19 goals, recognizing the importance of ongoing support for funding for the delivery of civil legal aid to low-income people. Survey responders ranked this 1<sup>st</sup> among proposed goals, with 64% ranking the goal as very important, and 24% ranking the goal as important.

**How does this further the State Plan?**

- **See, e.g., Goal 3: Alliance organizations will work to ensure that low-income members of underserved and underrepresented communities will be able to obtain legal assistance regardless of geographic and/or demographic circumstances or eligibility for federal and state funded legal services.**
- **Continuing implementation goal:** Collaborate with the Office of Civil Legal Aid, the Equal Justice Coalition, the Legal Foundation of Washington, the Washington State Bar Association and others to coordinate and leverage support for increased state funding for civil legal aid.

## **2. New priority: Address the civil legal needs of people without lawful immigration status.**

**i** This is a new goal, recognizing that individuals present in the United States without lawful immigration status may have unique civil legal needs beyond just their immigration status. Survey responders ranked this 2nd among proposed goals, with 52% ranking the goal as very important, and 42% ranking the goal as important.

### **How does this further the State Plan?**

- **See, e.g., Goal 3: Alliance organizations will work to ensure that low-income members of underserved and underrepresented communities will be able to obtain legal assistance regardless of geographic and/or demographic circumstances or eligibility for federal and state funded legal services.**
  - **See also Goal 4: The Alliance will encourage the use of holistic and client-centered approaches to address the complexity and breadth of legal needs to help clients overcome demographic, systems-based, and other institutional barriers.**
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- **Implementation goal:** Work with the Delivery Systems Committee and Alliance providers to identify unique civil legal problems affecting individuals without lawful immigration status. Such areas could include, as examples only:
    - Access to housing.
    - Employment discrimination and wage theft.
    - Access to healthcare.
    - Access to education.
    - Detention conditions.
    - Accessing courthouses and other facilities to apply for benefits or participate in proceedings.
  - **Implementation goal:** Work with relevant Alliance members and community-based organizations to develop strategies to help educate individuals concerning their civil legal rights and how to vindicate those rights.
  - **Implementation goal:** Work the Equal Justice Coalition, Legal Foundation of Washington, and other Alliance members to identify funding sources in light of certain restrictions on the use of civil legal aid funds for individuals without lawful immigration status.
  - **Implementation goal:** Monitor and support efforts to lift restrictions on civil legal aid funding for individuals without lawful immigration status. (This came from the survey. The Workgroup recognizes this is aspirational, yet believes that it should be a goal of the Board as an ally to immigrant and refugee communities.)



### **3. Ongoing priority: Promote systemic and internal race-equity practices, working toward a vision that race or color does not determine the availability and quality of services, fairness of outcomes, or opportunities for communities and individuals.**

**i** This goal is carried over in updated form from the 2017-19 goals, with input from stakeholders, recognizing both the centrality of race-equity work and that the work is never done. Survey responders ranked this 3rd among proposed goals, with 57% ranking the goal as very important, and 37% ranking the goal as important.

#### **How does this further the State Plan?**

- **See, e.g., Goal 1: The Alliance will promote racial equity both systemically and within its organizational practices, working toward a vision that race or color does not determine the availability and quality of services, fairness of outcomes, and opportunities for communities and individuals.**
- **New principal:** Engage more directly with Alliance partners and community partners outside of the Alliance concerning race-equity work, e.g., a preference for one-to-one contact rather than surveys, and follow up, e.g., seeking out comments, criticisms, and suggestions on what we can do better.
- **New implementation goal:** Provide tools for board members to do their own individual, personal race-equity work and reflection, recognizing that organizational change comes in part from individual change.
- **New implementation goal:** Develop and implement a plan for:
  - reviewing **existing** policies through a race-equity lens<sup>1</sup> and changing those existing policies if necessary;
  - reviewing **new** policies through a race-equity lens; and
  - reviewing best practices for establishing and engaging community partners in genuine, open dialogue on race equity and encouraging their feedback on the Board's work and its potential impact.
- **Continuing implementation goal:** Continue efforts to conduct a race equity self-audit to identify practices that impede diverse recruitment and retention of board members, staff, and volunteers, and develop strategies to eliminate those practices.
- **Continuing implementation goal:** Continue to increase the visibility of activities and successes in advancing race equity that are supported by Alliance organizations and the

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<sup>1</sup> The Workgroup considered whether to include a definition of “race-equity lens” here. The Board is a partner in the Washington Race Equity & Justice Initiative (“REJI”). The REJI Commitments and Acknowledgements can be found at <https://wareji.org/commitments/>.

greater legal community and community partners, e.g., through public praise for stakeholders engaging in this work.

#### 4. New priority: Support and uplift partnerships among legal aid providers and with justice-related and community-based organizations.

**i** This is a new goal, recognizing the importance of developing and strengthening relationships among legal aid organizations and their collaborative efforts with organizations and institutions that support and serve overlapping client communities. Survey responders ranked this 4th among proposed goals, with 54% ranking the goal as very important, and 34% ranking the goal as important.

##### How does this further the State Plan?

- **See, e.g., Goal 3, Strategy 1: Work with data, community-based partners, and communities to identify underserved and underrepresented communities on an ongoing basis and provide targeted legal assistance.**
  
- **Implementation goal:** To better understand gaps and duplication in client services, work with the Delivery Systems Committee to move forward their goal to map Washington’s civil legal aid network. Support may include, as examples only:
  - Providing funding, defining outcomes, and developing accountability measures for a facilitator to collect data and generate written and visual images of the map of civil legal aid services that are currently available
  - Convening local, regional, and statewide gatherings of legal aid providers, client communities, client service providers, and others to collect information about legal aid that is currently available.
  - To evaluate what can and should be done to bring about meaningful change to our state legal system with a focus on race equity, consider establishing a community-legal workgroup consisting of individuals representing different races, areas of service, and geographic locations, e.g. legal service providers, educators, faith, and labor leaders.
  
- **Implementation goal:** To strengthen connections between justice-related partners and the Alliance, assign liaisons to coordinate and identify possible areas for collaboration with Supreme Court commissions and boards, the Washington State Bar Association, and other institutions. An example of collaboration is the recent work concerning the presence of immigration law enforcement in or around courthouses in Washington.
  
- **Implementation goal:** Expand the Access to Justice Conference to include more input from community partners in planning and outreach in an effort to build strong, ongoing working relationships that go beyond the conference.
  
- **Implementation goal:** Develop a plan to host regional forums, inviting community members to share their concerns related to civil legal problems. (This comes from a comment by a survey participant, who explained that “[m]uch of what the Board’s members report are

reactions to an abstraction of identified issues learned from individuals,” and “the views of the problem may change if Board members heard directly from consumers.”)

## 5. New priority: Support work designed to assist unrepresented litigants.

**i** This is a new goal, recognizing that many low-income individuals with civil legal needs may need to go to court without representation. Survey responders ranked this 5th among proposed goals, with 51% ranking the goal as very important, and 31% ranking the goal as important.

### How does this further the State Plan?

- See, e.g., Goal 3: Alliance organizations will work to ensure that low-income members of underserved and underrepresented communities will be able to obtain legal assistance regardless of geographic and/or demographic circumstances or eligibility for federal and state funded legal services.
- **Implementation goal:** Identify potential legal and non-legal partners inside and outside of the Alliance already doing this work.
  - At least one board member should serve as a representative on the Superior Court Judges Association Unrepresented Litigants Ad Hoc Workgroup.
    - This workgroup includes several stakeholders and used the Court Management Council's December 2019 publication titled *Serving Self-Represented Litigants, a Survey Report on Self-Represented Litigants in Washington State Courts* as its starting point.
    - Laura Bradley, David Keenan, and Diana Singleton are already members of this workgroup and attended the group's first meeting on February 3, 2020.
  - Identify opportunities to work with partners, including identifying areas which partners are not working in, to avoid overlap and fill gaps.
- **Implementation goal:** Once partners, overlap, and gaps have been assessed, consider creating a committee on unrepresented litigants to:
  - Identify the need, i.e., how many unrepresented litigants are the courts seeing?
  - Identify particularly vulnerable types of unrepresented litigants, e.g., litigants experiencing a disability, and strategies to address their unique needs.
  - Identify and prioritize areas of law where unrepresented litigants need help, e.g., family law.
  - Identify and develop tools to assist unrepresented litigants, e.g., technology and training, and identify where those tools most need to be deployed.
- **Implementation goal:** The potential new committee will gather data from the Administrative Office of the Courts concerning the time to trial for civil cases in Washington's 39 counties and make recommendations. For example:

- How many counties had a ratio of active pending cases to cases resolved of greater than 1.0 in 2018? I.e., how many counties had more civil cases pending at the end of 2018 than resolved?
- For counties that had ratios greater than 1.0 in a given year, how many civil trials did the county conduct that year?
- How are lengthy civil time-to-trial delays affecting low-income litigants?
- If low-income civil litigants in under-resourced, over-burdened counties are not getting trial dates, what are they doing instead to vindicate their rights, if anything?

## 6. Ongoing priority: Promote, support and lead collaborative efforts to bridge the civil-criminal divide.

**i** This is an updated goal, recognizing the importance of continuing to work to break down divides among stakeholders in the civil and criminal systems. Survey responders ranked this 6th among proposed goals, with 34% ranking the goal as very important, and 39% ranking the goal as important.

### How does this further the State Plan?

- **See, e.g., Goal 4: The Alliance will encourage the use of holistic and client-centered approaches to address the complexity and breadth of legal needs and to help clients overcome demographic, systems-based, and other institutional barriers.**
- **Implementation goal:** Task a group, staffed by JustLead, with developing a working paper that lays out – from the perspectives of those engaged with these many systems – the dysfunction of the current systems and structures and how they operate to perpetuate a lack of access and systemically drive unjust outcomes. Some possible tasks, as examples only:
  - Identify the need, i.e., how collaboration and partnership can help?
  - Identify impacted populations and find existing programs that serve them.
  - Identify best practices and current collaborative work that can be easily replicated statewide.
  - Identify legal and non-legal partners within and outside of the Alliance that can help in collaborative work.
  - Identify and develop collaborative tools and programs that can help address the challenge.
  - Identify funding sources to help address the needs.
  - Take the results of this small workgroup and consider convening a larger implementing group.
- **Implementation goal:** Work with Alliance providers, the Superior Court Judges Association, the District and Municipal Court Judges Association, the Washington Association of Prosecuting Attorneys, the Office of Public Defense, the Washington Association of Criminal Defense Lawyers, the Washington Defender Association, the WSBA Council on Public Defense and others to educate stakeholders concerning the needs of individuals with overlapping civil-criminal legal problems, through the presentation of CLE, CJE, and other programming.
- **Implementation goal:** Work with therapeutic courts to encourage best practices with respect to defendants with overlapping civil-criminal needs.

**7. Ongoing priority: Support efforts to ensure the effective and appropriate use of technology in the justice system and within the Alliance for Equal Justice in order to provide meaningful and equitable access to justice.**

**i** This goal is carried over from the 2017-19 goals, with input from stakeholders, recognizing the centrality of technology to the delivery of civil legal aid and the fact that the use of technology to deliver civil legal aid continues to evolve. Survey responders ranked this 7th among proposed goals, with 32% ranking the goal as very important, and 37% ranking the goal as important.

**How does this further the State Plan?**

- **See, e.g., Goal 3, Strategy 2: Leverage innovative models and technology to increase the provision of the full range of legal services to low-income clients in underserved and underrepresented communities.**
- **Implementation goal:** In cooperation with the Technology Committee, work with partners to implement self-help technology solutions in locations where clients need them, e.g., courthouses.
- **Implementation goal:** Monitor implementation of the updated Access to Justice Technology Principles and other uses of technology in the justice system.
- **Implementation goal:** Support ongoing efforts like the development of technology for automated family law forms, ATJ Tech Fellows, and other work which promotes the intersection of technology and justice for communities that experience poverty and injustice.
- **Implementation goal:** Support the Tech Justice Summit.



**8. New priority: Reevaluate organizational identity to develop stronger mission, vision and value statements that align with current priorities.**

**i** This is a new goal, recognizing that board members and stakeholders struggle at times to understand the ATJ Board's roles. Survey responders ranked this 8th among proposed goals, with 19% ranking the goal as very important, and 28% ranking the goal as important.

- **Implementation goal:** Starting with the results from the 2019 survey, work with JustLead to clearly define and articulate the Board's role within the Alliance. Examples of questions to answer:
  - If the ATJ Board was dissolved tomorrow, what would the impact be?
  - Starting with the Board's mission, identify exactly what the Board is required to do.
  - Identify what the Board's authority is to carry out its required tasks.
  - Identify required tasks where the Board lacks authority, if any.
  - Identify areas, if any, where the Board is acting beyond the tasks required by its mission.
- **Implementation goal:** Develop a communication plan to reach out to stakeholders to share the updated identity.
- **Implementation goal:** Create an ongoing feedback mechanism to determine if and how the Board is carrying out its unique role within the Alliance.

## GR 9 Cover Sheet

- (A) Name of Proponent: Workgroup, Washington State LFO Stakeholder Consortium
- (B) Spokesperson: Judge David Steiner, King County Superior Court
- (C) Purpose: Trial courts may not impose discretionary costs upon an indigent defendant and may not impose discretionary costs upon a non-indigent defendant unless the defendant is able to pay those costs. RCW 10.01.160(3). When legal financial obligations (LFOs) in any form are imposed upon indigent defendants or imposed upon non-indigent defendants in an amount greater than the defendant's ability to pay, these LFOs create problems that have been well documented. State v. Blazina, 182 Wn.2d 827, 834 – 837, 344 P.3d 680 (2015). LFOs may include court-imposed costs, fines, fees, penalties, assessments, and restitution. LFOs may have been imposed without an individualized inquiry into a defendant's ability to pay, or a sentenced defendant may have lost the ability to pay LFOs ordered at the time of sentencing. State law currently requires that, upon motion by a defendant, following the defendant's release from total confinement, the court shall waive all interest on the portions of the LFOs that have accrued that are not restitution. RCW 10.82.090. In addition, if default on payment of LFOs is not willful and the defendant is indigent as defined in RCW 10.101.010(3)(a) through (c), the court shall modify the terms of payment of the LFOs, reduce or waive nonrestitution legal financial obligations, or convert nonrestitution legal financial obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. RCW 9.94A.6333(3)(f). This proposed rule creates a process whereby a defendant may request remission or reduction of LFOs (except for restitution and victim penalty assessment). Defendants may also request removal of LFOs from collection, payment by other forms of community restitution and additional time to pay. This proposed rule cites to existing authority regarding the disposition of hearings related to the imposition of LFOs and does not create new authority directing the outcome of a petition requesting remission of LFOs. In drafting this proposed rule, consideration was given to the following authorities: GR 34; RCW 9.94A.6333(3)(f); RCW 9.94A.780(7); RCW 9.94B.040(4)(f); RCW 10.01.160(3) & (4); RCW 10.01.170(1); RCW 10.01.180(5); RCW 10.101.010(3); RCW 10.82.090; RCW 36.18.016(29); State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015); State v. Ramirez, 191 Wn.2d 732, 426 P.3d, 714 (2018).
- The definition of an LFO within this proposed rule does not include clerk's fees imposed pursuant to RCW 9.94A.780(7) and RCW 36.18.016(29). These clerk's fees must not exceed the annual cost of collections and must never exceed \$100 annually. A county clerk may also "exempt or defer payment of all or part of the assessment" based upon any of the factors listed in RCW 9.94A.780(1). RCW 9.94A.780(7).
- (D) Hearing:
- (E) Expedited Consideration:

Proposed GR:

RULE 38. REMISSION OF LEGAL FINANCIAL OBLIGATIONS

- a) A legal financial obligation (LFO), as referenced in this rule, means costs, fines, fees, penalties, assessments, and restitution imposed by a Washington court and does not include the RCW 9.94A.780 clerk's fee for collecting the LFO.
- b) An individual who has been required to pay LFOs may petition the sentencing court for a waiver of interest and remission or reduction of any unpaid portion of the LFOs, except restitution and victim penalty assessment, and may request any other relief as allowed by law. The petitioner may also request that the LFOs be removed from a collection agency; request additional time to pay the LFOs; and, excluding restitution and victim penalty assessment, request payment by community service or other forms of community restitution if available in the community.
- c) A petition shall allege that the petitioner is indigent or lacks the financial ability to pay the LFO. Provided, indigence and ability to pay are not related to a request to waive interest pursuant to RCW 10.82.090. For purposes of this rule, "indigent" is defined in RCW 10.101.010.
- d) The petitioner shall complete and file a mandatory pattern form petition, declaration of mailing and proposed order created by the Administrative Office of the Courts (AOC). The petitioner may attach appropriately redacted financial documents supporting the request. See GR 31(e). The petitioner shall also mail copies of the petition, declaration of mailing and proposed order to the appropriate prosecuting attorney.
- e) The court shall accept the petition submitted in person, by mail, or, where authorized by local court rule not inconsistent with GR 30, by electronic filing. All petitions shall be presented to a judicial officer for consideration in a timely manner and there shall be no fee imposed for filing and consideration of a petition.
- f) The judicial officer may set the petition for a hearing, or may consider the petition ex parte without a hearing no sooner than three business days from filing of the petition and declaration of mailing or the filing of the declaration of mailing if filed after the petition. Provided, when the appropriate prosecuting authority files a letter with a presiding judge requesting notice of all petitions filed pursuant to this rule, the court shall set all such petitions for hearing and send the notice of hearing to all parties. In the letter provided to the presiding judge, the prosecuting authority, however, may limit the notice requested to select cases, such as cases where the fine or costs are greater than a specified amount.

- g) Hearings by telephone improve access to the courts. If a petition is set for hearing, upon request, the court in its discretion may permit a telephone appearance by the petitioner subject to local court rule and/or local policies.

**From:** Harvey, Sharon [<mailto:Sharon.Harvey@courts.wa.gov>]

**Sent:** Wednesday, February 12, 2020 5:07 PM

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**Subject:** LFO Remission Rule: Request for Support

***The following message is sent on behalf of Judge David Steiner, Spokesperson for the Legal Financial Obligations Remission Rule.***

Dear Judicial Stakeholders:

In 2019, the Washington State Minority and Justice Commission Legal Financial Obligations (“LFO”) Stakeholder Consortium completed more than two years of work researching LFO’s and their impacts. This research confirmed that many indigent defendants shoulder significant LFO debt, which makes reintegration into the working community extremely difficult. For this reason, a workgroup comprised of court clerks, defense counsel, and trial court judges, from within the LFO Stakeholder Consortium, finalized a proposal for a general rule that would create a standard, streamlined, and relatively quick method for the remission or reduction of LFO’s in every court throughout our state. The LFO Remission Rule has received support from the LFO Stakeholder Consortium, the Superior Court Judges’ Association’s Board of Trustees, the District and Municipal Court Judges’ Association’s Board of Governors and the Washington State Association of County Clerks.

The LFO Workgroup is now seeking the support of other stakeholders before sending the proposal to the Washington State Supreme Court Rules Committee. Please consider supporting the attached proposed rule. We hope to send this rule to the Supreme Court Rules Committee for consideration in early April.

Sincerely,

Judge David Steiner  
King County Superior Court  
LFO Stakeholder Consortium Rule Spokesperson