

**Recommendation Summary (CB Detail)**

**Agency: 057 Office of Civil Legal Aid**  
**Version: S1 2016 Supplemental Request**

9:48:13AM  
 11/20/2015

Dollars in Thousands

	<b>Annual</b>	<b>General</b>	<b>Other Funds</b>	<b>Total Funds</b>
	<b>Average FTEs</b>	<b>Fund State</b>	<b>Other Funds</b>	<b>Total Funds</b>

**2015-17 Current Biennium Total**

**Total Carry Forward Level**

Percent Change from Current Biennium

**Carry Forward plus Workload Changes**

Percent Change from Current Biennium

**Total Maintenance Level**

Percent Change from Current Biennium

PL A3 Protect Client Service Delivery

555

555

**Subtotal - Performance Level Changes**

**0.0**

**555**

**555**

**2015-17 Total Proposed Budget**

Percent Change from Current Biennium

**555**

**555**

**PL A3 Protect Client Service Delivery**

Funding is requested to protect Northwest Justice from loss of additional client service capacity and ability to retain physical presence in all parts of the state consistent with RCW 2.53.030(4).

# Washington State Judicial Branch 2016 SUPPLEMENTAL BUDGET

## Decision Package

**Agency** Office of Civil Legal Aid

**Decision Package Title** Protect Client Service Delivery Capacity

**Budget Period** 2016 Supplemental

**Budget Level** Policy Level

### Agency Recommendation Summary Text

Funding is requested to protect Northwest Justice from loss of additional client service capacity and ability to retain physical presence in all parts of the state consistent with RCW 2.53.030(4).

### **Fiscal Detail**

<b>Operating Expenditures</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
<b>Funding Source</b>	<b>\$0</b>	<b>\$555,000</b>	<b>\$555,000</b>
<b>Staffing</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
<b>FTEs (number of staff requested)</b>	<b>0</b>	<b>0</b>	<b>0</b>

### **Package Description**

Northwest Justice Project (NJP) is the statewide qualified legal aid program (RCW 2.53.030) with which the Office of Civil Legal Aid contracts to provide legal help to low-income Washingtonians on matters falling within the areas of authorized client service set forth in RCW 2.53.030(2). Since 2009, NJP has lost 20% of its basic field statewide client service capacity. Despite a very small vendor rate adjustment in the FY 2015-17 biennial budget, NJP faces a shortfall of \$555,000 in funding needed to maintain its current basic field client service footprint. This is after the dedication of \$200,000 in operating reserves. Failure to close this shortfall will result in NJP further reducing client service capacity. This additional reduction threatens NJP's ability to maintain client service presence in key rural areas of the state and will also have an indirect negative

impact on urban-centered client service offices. \$555,000 in supplemental funding is needed to protect NJP's existing footprint and forestall the closure of offices serving some of the most rural and remote low-income residents of Washington State.

### **Narrative Justification and Impact Statement**

The Northwest Justice Project is the principal provider of state-funded legal aid services to more than 1.25 million Washingtonians living at or below 125% of the federal poverty level. NJP maintains client service offices in 17 locations across the state, and hosts the statewide toll-free civil legal aid hotline known as CLEAR (Coordinated Legal Education, Advice and Referral). NJP also hosts a statewide self-help legal resources website ([Washington Law Help](#)) and provides fiscal, administrative and other support for 17 local volunteer legal aid programs and four specialized providers of legal aid services.

The core of NJP's client service system is its "basic field" legal aid delivery system. This system provides access to legal services for eligible low-income people facing a broad spectrum of civil legal problems ranging from health care, housing and domestic violence, to denials/terminations from essential governmental support, issues of family safety and security and consumer fraud/predatory lending practices. State appropriated funding is used to underwrite NJP's basic field footprint. State funds are complemented by funding made available through the federal Legal Services Corporation (LSC).

Since 2009, NJP has experienced significant reductions in client service capacity. NJP's basic field client service footprint was 101.5 full-time client service attorneys (FTE's) in 2009. As of July 1, 2015, it was 82.3 FTE's. This number includes staff deployed across the state as well as those dedicated to the statewide legal aid hotline (CLEAR). This represents a 20% reduction in basic field client service capacity.

As shown in the attached basic field office detail, staffing in NJP regional offices is now razor thin. Additional staffing reductions cannot be absorbed without seriously threatening its ability to maintain geographic presence in all parts of the state. Single attorney offices operate in Aberdeen (serving Grays Harbor and Pacific Counties), Port Angeles (serving Clallam and Jefferson Counties) and Walla Walla (serving Walla Walla, Columbia, Garfield and Asotin Counties). Two-attorney offices operate in Longview (serving Cowlitz and Wahkiakum Counties), Pasco (serving Benton and Franklin Counties), Colville (serving Ferry, Stevens and Pend Oreille Counties) and Omak (serving Okanogan and part of Ferry Counties). Statewide, the basic field attorney to eligible client ratio is one attorney for every 15,000 eligible low-income clients (using 125% of the federal poverty guideline as the basic income eligibility standard).

While OCLA requested additional funding to stabilize NJP's basic field client service delivery system for the FY 2015-17 biennium, new funds were not appropriated beyond a small vendor rate adjustment designed to mitigate a portion of NJP's anticipated

personnel costs during the biennium. That adjustment is not sufficient to prevent the shortfall that forms the foundation of this supplemental budget request. NJP projects a shortfall of \$555,000 in funding to underwrite its basic field client service system. This is due to (a) NJP's efforts to maintain core client services, especially in areas where there is no alternative source of civil legal assistance, (b) the impact of stagnant state funding after having experienced more than \$2 million in cumulative cuts during the 2009-2014 period, (c) reductions and stagnation in basic field support from the LSC, and (d) NJP's commitment to protect the capacity of volunteer and other state-funded providers of legal services from further cuts that would affect their ability to (i) recruit, train and refer eligible clients to volunteer attorneys and (ii) provide services to specialized populations using unique skills and legal competencies developed over many years by the four specialty legal services providers that receive state funding under NJP's OCLA-approved subcontract.

Should NJP be unable to secure the additional \$555,000 in requested supplemental funding, additional client service staff reductions will have to be made. NJP projects the need to cut an additional 5 FTE attorney positions. Such cuts will likely force the closure of one or more of NJP's one-attorney offices, eliminating physical presence in the affected regions and adversely affecting client service in continuous regions where staff will be forced to cover in areas where office have been closed. Examples of potential reduction scenarios may include some combination of the following:

- Close Walla Walla Client Service Office (Savings: 1 FTE). This will eliminate presence in the Southeast corner of the state and will impose additional client service demands on the two Pasco-based attorneys currently serving low-income residents of Benton and Franklin Counties (Resulting attorney: eligible client ratio -- 1:26,082)
- Close Aberdeen Client Service Office (Savings: 1 FTE). This will eliminate presence in Grays Harbor and Pacific Counties. The Olympia office (3 FTE serving Thurston, Mason and Lewis Counties) will be called to serve clients in Grays Harbor and Pacific Counties. (Resulting attorney: eligible client ratio – 1:22,575)
- Close Colville Client Service Office (Savings: 2 FTE). This will eliminate presence in all of Northeastern Washington, an area with high poverty and extremely difficult geographic access problems. Service to low-income residents of Ferry, Stevens and Pend Oreille Counties would come from Spokane, which is at an all-time low staffing level of 4 basic field FTE's. (Resulting attorney: eligible client ratio – 1:24,011)
- Reduce CLEAR Staffing (Savings: 2 FTE). CLEAR is the gateway into the state legal aid delivery system. CLEAR advocates provide legal diagnosis, self-help assistance, limited levels of direct legal assistance and referrals to NJP offices and other legal aid providers where the services require a level of assistance that cannot be provided by the hotline. CLEAR advocates handle upwards of 500 individual cases each year.

CLEAR advocate staffing has been reduced from 32 FTE in 2009 to 26 FTE as of July 1, 2015. Further reductions will cause additional bottlenecks that will further erode client access into the civil legal aid delivery system. This would come at a time when the most recent [Civil Legal Needs Study Update](#) documents a high percentage of people unable to help from NJP and other legal aid providers due to busy phone lines and calls that are not returned.

## **Contribution to the Judicial Branch Principal Policy Objectives**

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

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

With unprecedented numbers of Washingtonians living at or near poverty and in light of the findings from the Supreme Court's 2015 Civil Legal Needs Study Update, it is imperative to protect the basic civil legal aid delivery system from further loss of capacity.

### **Accessibility.**

The 2015 Civil Legal Needs Study documents that persons with disabilities experience disproportionate numbers of problems and face unique barriers that both contribute to the legal problems they experience as well as their ability to secure legal help to resolve such problems. Further, the American Community Survey documents that persons with disabilities experience substantially higher rates of poverty than the general population.

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

### **Access to Necessary Representation.**

The 2015 Civil Legal Needs Study Update confirms that, at best, 24% of low-income Washingtonians who experience one or more civil legal problems gets any legal help at all. For many (especially those with contested cases pending in a court or administrative tribunal), the level of help is not responsive to the need they have for extended legal representation. More than three-quarters of all low-income people get no help and are

forced to navigate complex judicial and administrative systems in an effort to solve their problems themselves.

In an adversary civil justice system, those with an effective legal voice are much more likely to be successful in presenting their cases than those without. The 2003 Civil Legal Needs Study and the 2015 CLNS Update findings confirm the relationship between the ability to access legal help and a low-income person's ability to resolve the underlying legal problem.

Legal aid offers a full spectrum of assistance to help low-income people effectively participate in their legal cases. In those cases where the stakes are important, the issues complex and the other side is represented, an unrepresented individual is at a distinct disadvantage. Within the resource limits available, civil legal aid -- whether offered through a staffed legal aid program or a pro bono attorney -- levels the playing field and ensures that evidence and arguments of those with important interests at stake will be heard and considered on their merits.

With the civil legal aid system historically understaffed, additional cuts will result in further capacity losses, staffing levels spread ever thinner and the likelihood of losing legal aid presence in one or more geographic areas of the state. This result would directly undermine the branch's commitment to ensuring necessary representation for all in our state's courts and related tribunals.

### **Appropriate Staffing and Support.**

The lack of effective legal aid services has an indirect impact on court operations and staffing, particularly as the number and percentage of unrepresented people continues to increase. Further reduction in legal aid capacity will increase demand on Clerks offices and understaffed courthouse facilitator programs. As a recent AOC assessment conducted for the Access to Justice Board's Justice Without Barriers Committee confirmed, increased demand on court systems by unrepresented litigants can contribute to loss of efficiency and inefficient use of court time and personnel. Courts – especially those in communities that may experience the closure of a legal aid office – cannot absorb the consequences of further cuts to the state civil legal aid system.

### **Measure Detail**

#### **Impact on clients and service**

Additional cuts of 5 FTE will further deplete an already over-depleted legal aid system. This would come at a time when more people than ever need help from a civil legal aid provider to resolve urgent and often critical problems involving access to health care, housing, physical and emotional safety, economic security and many other problems of great significance to them and their families.

Elimination of legal aid presence in some of the most rural areas of our state will further

isolate low-income residents from the justice system. This will exacerbate a growing problem where the availability and quality of justice depends on where one lives determines.

Justice cannot be fairly administered in a system where there is one FTE legal aid attorney on average for every 15,000 – 20,000 low-income residents. History and recent events tell us that democratic systems do not operate effectively when entire segments of the population are written out of the justice system, have no legal voice and have no hope for securing just outcomes on significant legal matters. The 2015 Civil Legal Needs Study Update confirms that more than 60% of low-income people do not have confidence in the capacity of our courts and justice system to deliver just outcomes in cases involving people like them. These figures are even worse for members or racial and ethnic minorities – populations that are disproportionately poor and who experience disproportionately high rates of legal problems across all substantive areas.

### **Impact on other state services**

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

### **Relationship to Capital Budget**

None

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

None

### **Alternatives explored**

NJP's basic field service capacity is underwritten by state and federal sources. Because of federal budget dynamics, there is no chance of securing the funding needed to close

the client service funding gap that NJP faces effective July 1, 2016. There are no alternatives beyond this request for supplemental funding.

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

If funded, this request will result in an increase in OCLA's carryforward funding level for FY 2017-19 of \$1.11M.

**Effects of non-funding**

Please note client service delivery reduction scenarios listed above.

**Expenditure calculations and assumptions and FTE assumptions**

<b>Object Detail</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
Staff Costs	\$0	\$0	\$0
Non-Staff Costs	\$0	\$555,000	\$555,000
<b>Total Objects</b>	<b>\$0</b>	<b>\$555,000</b>	<b>\$555,000</b>