

July 2016 Bar Bulletin

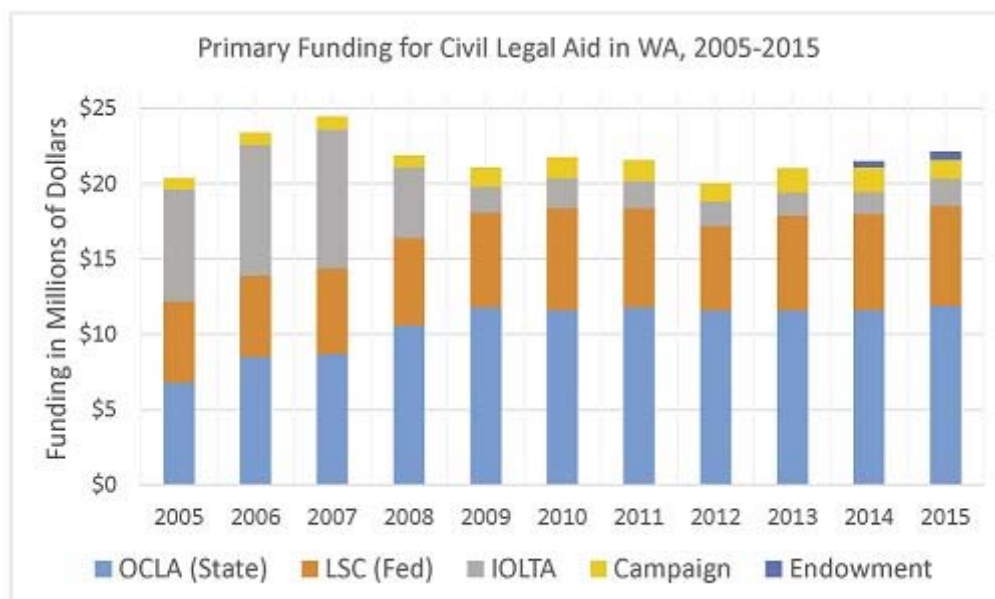
Demystifying Washington's Civil Legal Aid Network

By Kay Frank,
and David Burman

This article is the second in a two-part series exploring the growing need for civil legal aid in Washington, how our state's civil legal aid network operates, and how it aims to address this crisis.

The Challenge: Rapidly Increasing Civil Legal Needs of Low-Income Washingtonians

Unlike in criminal cases, the U.S. Constitution does not guarantee the right to legal representation for people facing civil legal issues. Many people must face the judge without a lawyer, and a civil legal problem often spirals into a series of complex and interconnected challenges to the health, safety, and financial security of low-income individuals, families and communities. Washingtonians may be facing a looming foreclosure or eviction, the trauma of domestic violence and child custody issues, or the challenge of reinstating a driver's license to get and keep a job.



The number of people living in poverty who cannot access legal aid is exploding, as Jay Doran of the Legal Foundation of Washington emphasized in the first part of this series in the June Bar Bulletin,¹ highlighting the results of the 2015 Civil Legal Needs Study (CLNS). A staggering 18 percent of Washington's population lives in poverty. However, the one bright spot in the study confirms that the civil legal aid system does work effectively for those who do get support: More than 60 percent of those who receive legal help secure some resolution to their problems. So, how do we meet the demand of people needing legal help?

Unfortunately, there are simply not enough resources and capacity to meet our state's increasing demands. Only about 24 percent of those living in poverty receive the legal assistance they need to address their potentially life-altering civil legal issues. The gap between those who need services and those who get them is largely due to inadequate financial support for legal aid organizations and related programs and services.

"We are only reaching a fraction of the Washingtonians who need our help, and the needs are growing exponentially," wrote John McKay, former U.S. attorney for the Western District of Washington, in the February issue of *NW Lawyer*. "The doors to the courthouse are closed to the poor and the powerless."

Addressing the Need: Our State's Civil Legal Aid Network in a Nutshell

There are more than 20 organizations that provide civil legal aid to low-income individuals and families throughout the state. The size of these organizations, the services they provide and the people they serve vary. The Northwest Justice Project (NJP), our state's largest provider of civil legal aid, employs more than 100 attorneys at 17 offices across the state, and operates our state's centralized legal aid hotline (CLEAR) and legal aid website, WashingtonLawHelp.org. NJP relies on restricted federal and state dollars directing the type of work and clients it can serve (e.g., no class actions, cannot represent undocumented or incarcerated people).

Partly as a result of these restrictions, several “specialty” legal aid providers work with targeted low-income populations to meet their needs. A few examples:

- TeamChild is a statewide organization working with youth to provide the legal support necessary to keep them on track, housed, safe and in school.
- Seattle Community Law Center works exclusively with people with disabilities who are homeless or low-income to assist them in accessing federal benefits.
- Columbia Legal Services is a statewide provider focused on systemic advocacy, using policy reform, litigation and innovative partnerships to end practices and procedures that keep people in poverty.

Additionally, there are 17 volunteer lawyer programs (VLPs) covering nearly every corner of our state — from Spokane to Vancouver to Whatcom County — that work with private attorneys who donate their time and expertise to help low-income individuals and families with their civil legal needs. VLPs vary in size and function, but generally speaking, these organizations are part of a community’s local bar association (e.g., King County Bar Association Pro Bono Services), have staff that recruit volunteer attorneys to assist clients at scheduled legal clinics, and have staff attorneys or volunteer attorneys who provide volunteers with oversight and mentorship.

Our civil legal aid network is efficient and effective, but grossly underfunded. NJP, the specialty providers and the VLPs all work collaboratively to deliver services. However, as the CLNS illustrates, the need is immense and expanding. Even with this highly coordinated infrastructure of services, only 24 percent of those in need of legal aid are able to get some level of assistance with their civil problems.

How Is the Civil Legal Aid Network Funded?

While state and federal funds and lawyer pro bono time are essential in providing civil legal aid, they fall far short of meeting current and future demand. Recognizing this shortfall, the Washington Supreme Court created the Legal Foundation of Washington (LFW) 30 years ago to distribute the Interest on Lawyer Trust Accounts (IOLTA) funds.

Today, LFW is the largest provider of unrestricted, private, civil legal aid funds, raising money from a variety of sources, including the legal community, foundations and individuals. LFW has also been the recipient of cy pres awards from class actions. LFW pools all these funds and makes annual operating grants to specialty providers and all 17 VLPs. In 2015, LFW granted a total of \$6.9 million to these programs (which can provide up to 90 percent of their budget).

LFW grantees offer legal expertise that encompasses all aspects of civil legal needs — healthcare, consumer, employment, housing, family and more — while covering every corner of Washington. LFW stewards these grants responsibly and efficiently by providing financial oversight, analyzing client service data, conducting site visits, and working with the civil legal aid network to ensure best practices and coordination of services, while distributing grants where they are most effectively deployed and providing autonomy to local agencies to anticipate and identify the greatest needs on the ground.

However, the Great Recession and the subsequent dramatic and extended drop in interest rates took IOLTA revenue from \$9 million to \$2 million a year, significantly impacting LFW’s budget and ability to plan for the future.

Unanticipated cy pres awards and rainy day funds have allowed LFW to maintain its critical grant making around the state, but new sources of funds must be found to meet current and future needs. Even without a financial crisis, IOLTA and cy pres funds are inherently unpredictable and variable, offering little sustainability. Given that IOLTA funds are unlikely to return to pre-recession levels anytime soon, LFW is diligently working to grow its private, unrestricted funding base.

Private, Unrestricted Funds Make a Difference Between Hope and Despair



Attorneys from around the state stepped up to meet this challenge by creating two vital philanthropic funding sources that are essential for meeting the civil legal needs facing our communities: the Campaign for Equal Justice and the Endowment for Equal Justice.

In 1984, LFW and its grantees forged a unique and unified funding collaborative known as the Campaign for Equal Justice (“C4EJ”). The Campaign is the only statewide fundraising drive that solicits major support from law firms, individual attorneys and the public to support 23 civil legal aid organizations that help thousands of low-income Washingtonians in need. It is the one-stop shop for funding legal aid, making it easy for donors to support all 23 organizations with one contribution to the unified campaign.

Additionally, the Campaign partners closely with legal aid programs and local bar associations to host joint events and fundraising drives. For example, each year the Campaign and the King County Bar Foundation collaboratively solicit contributions from King County law firms, working together to maximize results.

The Endowment for Equal Justice, established in 1991, was created to provide a stable, permanent source of funding for civil legal aid. In 2014, it made its first annual disbursement of \$394,000 to LFW. The Endowment today stands at \$15 million and is intended to provide a stable funding source for future generations

These two statewide fundraising efforts are the backbone of civil legal aid’s private funding network and together have a powerful impact in every community in Washington. The funds are unrestricted, but are not supported by public resources.

The private funds we raise not only fill part of the gap, but also allow civil legal aid organizations the flexibility to engage in high-impact litigation, advocacy and community outreach — essential tools to achieve systemic changes that confront the root causes of poverty.

Even if the amount of government funding was sufficient, restrictions on its use would curtail whom we could serve and limit our impact. After all, our justice system was meant to work for all of us, not some of us.

Unrestricted funds provide advocates with the opportunity to serve vulnerable communities such as undocumented immigrants and people who are incarcerated, and bolster crucial legislative advocacy that steers public policy and funding toward justice.

Washington’s civil legal aid network is robust and effective — it simply needs sufficient financial support. Fully funded, the network has the expertise and structure to provide low-income people in every community in Washington with access to vital legal services they could never afford on their own.

Toward this end, the Endowment for Equal Justice will launch an ambitious campaign to increase the endowment from \$15 million to \$20 million by 2020, which will increase our disbursement to LFW to \$1 million a year. This would significantly increase the resources available to help people stay in their homes, gain employment, access healthcare, secure citizenship, protect their children from abuse, and meet other civil legal needs.

“Ultimately,” says Washington Supreme Court Justice Charles K. Wiggins, “[The 2015 Civil Legal Needs Study Update] challenges us to work all the harder to secure the investments needed to deliver on the promise embedded in our constitutional history and our nation’s creed — that liberty and justice be made available ‘to all.’”

Help us make justice for all a reality in Washington by supporting the Campaign and/or the Endowment. It is a smart, results-oriented investment with a priceless return.

Find out more at <https://legalfoundation.org/about-giving/>. □

Kay Frank is a board member of the Endowment for Equal Justice.

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[1https://www.kcba.org/newsevents/barbulletin/BView.aspx?Month=06&Year=2016&AID=article19.htm](https://www.kcba.org/newsevents/barbulletin/BView.aspx?Month=06&Year=2016&AID=article19.htm)

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