

## **APPENDIX R**

### **Washington Supreme Court Task Force on Civil Equal Justice Funding**

To: Chief Justice Gerry Alexander  
Members of the Supreme Court

From: Task Force on Civil Equal Justice Funding  
Justice Charles W. Johnson, Chair  
Judge Mary Kay Becker, Co-Chair

Re: Final Report and Recommendations of the Task Force on Civil Equal Justice Funding

Date: May 26, 2004

### **REPORT AND RECOMMENDATIONS**

The Task Force was established by order of the Supreme Court on November 1, 2001, and was given five charges. This is our report on each charge.

#### **1. Undertake a Comprehensive Study of the Civil Legal Needs of Low Income People.**

The Study has been completed and has been previously provided to the Court. The study demonstrates that low-income people in Washington, and especially women and children, for the most part do not obtain legal assistance for their legal problems even though those problems generally involve such basic human needs as housing and safety.

Urgent and decisive action is needed to ensure that justice for all is not a hollow promise.

#### **2. 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.**

Housing disputes, family law, domestic violence, predatory consumer practices, wage claims and other employment problems, and administration of public benefits—these are the primary problems of the poor, as revealed by the

study. The people of Washington have positive legal rights with respect to most of these problems, embodied in statutes. But legal rights are illusory when they are not enforceable.

The State has created courts and administrative tribunals where rights can be asserted and defended. Without legal assistance, the poor lack meaningful access to these forums. Access to the justice system is a fundamental right. The state is charged with affirmative responsibilities to ensure that this right is fully realized<sup>1[1]</sup> and that its laws, intended for the protection of all, actually fulfill that promise.

### **3. 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.**

A Quantification Working Group was established under the leadership of Justice Chambers. This body developed an analysis of the unmet needs identified in the Civil Legal Needs Study, the type of legal services needed to meet these needs, the current and potential capacity of the equal justice delivery system meet the various types of needs, the overall increase in funding required (\$28,256,000) and the portion of the cost for which the state is appropriately responsible to address (\$18,250,000). The Work Group's report is attached to and incorporated into this report.

### **4. Identify and propose strategies to secure long-term, sustained, and permanent stable funding needed to meet this need.**

The Task Force concludes that the state general fund should be the primary source of additional revenues needed to meet the need for state-eligible equal justice services. It explored a wide range of potential dedicated funding sources that have some nexus to the need for civil equal justice services and concluded that each of these potential sources comes with its own set of challenges and potentially significant detracting considerations.

While the Task Force has considered the potential for developing a dedicated tax revenue stream to support civil equal justice services, the

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legislature has historically been reluctant to follow this approach. Instead, it has appropriated revenues from filing fees and the general fund for civil legal services.

Increased filing fees on civil cases, even if dedicated solely to civil equal justice services, will not close the gap. Counties currently receive 54% of these revenues and would be resistant to dedication of those revenues to legal services instead. While a potentially significant source of additional revenue, a filing fee increase of \$90 will generate only about \$4 million per year – about 22% of the overall additional needed funding. The most natural and most probable source for the balance of needed funding then continues to be the state general fund.

Under current state statutes only certain legal categories are eligible for state support. The need in those categories is \$18,252,000 over current appropriated levels – \$36,504,000 per biennium.<sup>2[2]</sup> The Task Force recognizes that the legislature faces difficult fiscal choices from competing needs. Nevertheless the Task Force believes that the crisis in civil equal justice funding, as documented by this report, requires an immediate and sustained response. We therefore recommend that the legislature phase in the required increases documented in this report over the next three to four biennia. Such an approach recognizes the urgency and gravity of the need for civil equal justice funding and will allow for an orderly expansion of services to meet the needs for legal services over time.<sup>3[3]</sup>

## **5. Develop recommendations for the proper administration and oversight of publicly funded civil equal justice services in Washington State.**

The Task Force has approved the following recommendations:

- A. Placement in judicial budget. All state funds for civil legal services should be appropriated as part of the judicial budget.
  - B. Administration within judicial branch. A separate office of civil equal justice services, analogous to the Office of Public Defense, should be established to administer the funds.
  - C. Legislative Oversight. The joint legislative oversight committee, already established in RCW 43.08.270, is an appropriate entity to carry on this task.
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D. Recodification into Judicial Title. Statutory provisions relating to the use and administration of state funding should be recodified as a new chapter in Title 2 RCW, the title relating to the administration of justice.

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4[1] See *Tennessee v. Lane*, \_\_\_ U.S. \_\_\_, No. 02-1667 (Slip Op. May 17, 2004).

5[2] This number does not take into account the likely growth in the poverty population (which grew more than 18% between 1990 and 2000) or the increased costs of operation over time (fiscal indexing). This number provides a snapshot – a benchmark against which other variables such as these can be run.

6[3] Recognizing that it is unlikely that the full level of funding required will be obtained in the next one or two biennial budgets, it will be necessary to index the funding requirement so that the overall figure tracks cost increases over time.