

2008 State of the Judiciary

As we enter 2008, let me take this opportunity to wish you a Happy New Year and a productive legislative session.

Tradition holds that the Chief Justice of the Washington Supreme Court deliver a State of the Judiciary Address to a joint session of the Washington State Legislature every other year. I have been pleased to receive this invitation in the past, and with this letter I hope to continue communications among our branches with an interim report on the state of our judicial system. I do so on behalf of the more than 360 judicial officers who serve in Washington's appellate and trial courts.

First, I would like to mention that earlier this month, we were fortunate to welcome a new member to the Supreme Court with the official swearing-in of Justice Debra L. Stephens. Justice Stephens was appointed by Governor Gregoire in December, and she comes to the court from Division Three of the Court of Appeals in Spokane. Prior to embarking on her judicial career, Justice Stephens was an attorney in Spokane, focusing on appellate practice. We are delighted to welcome her to the court and hope that you all get a chance to meet her in the coming months.

As you may recall, my last several addresses have highlighted our *Justice in Jeopardy* legislative proposal, which has aimed at improving the operations of our trial courts in Washington. At the core of this initiative is a rebalancing of responsibility for the funding of trial courts so that the state government contributes in a more equitable way, along with local government, to the operations of the superior, district, and municipal courts.

When we began this endeavor in 2005, we recognized that the funding crisis could not be remedied in one legislative session. Since then, the judiciary has been very gratified with the legislature's response to our efforts to identify, in an incremental way, the critical needs for improvement to the administration of justice in Washington State.

Due to actions last session, we have taken important steps toward improving trial court operations, indigent defense, parental representation in termination and dependency cases, and civil equal justice funding throughout Washington State. This year, we are focusing primarily on implementation of this legislation, and plan to be back before the 2009 session with additional *Justice in Jeopardy* proposals for your consideration.

Below is a listing of current initiatives funded by the legislature and the status of each project:

Juror Research Project

The judicial branch relies solely on citizen participation to enable the critical cornerstone of our justice system—trial by a jury of one's peers.

One mark of a good jury system is that it draws on people from across the many diverse elements of a community. However, we have long believed that the current rate of pay (\$10 per day) inhibits certain segments of the community from participating in jury duty. In 2000, the Washington State Jury Commission listed increased juror pay as the foremost jury reform needed in the state.

In 2006, the Washington State Center for Court Research, within the Administrative Office of the Courts (AOC), started work on a Juror-Pay Research Project to measure whether increasing juror pay will broaden citizen participation in the jury system, in particular for those who normally would not comply with a juror summons because they face economic pressure through lost wages, transportation costs, child care expenses, and other costs.

With legislative funding, the research project increased juror pay in three jurisdictions (Clark County Superior and District courts, Franklin County Superior Court, and Des Moines Municipal Court) from \$10 per day to \$60 per day until late in 2007. Researchers will study the impact of the pay increase on juror response rates and diversity, and report on the results later this year.

When the research project is complete, it will add significantly to the body of data available not just in Washington, but also nationally, regarding juror pay and how it affects the quantity and diversity of juror participation. We look forward to sharing the results with you.

Washington State CASA Program

Last year, the judiciary endorsed the expansion of the Court Appointed Special Advocate (CASA) program as part of the *Justice in Jeopardy* initiative -- to increase access to justice and meet the state mandate that children in abuse and neglect proceedings shall have a guardian ad litem.

Prior to this time, CASA programs across Washington were operating on shoestring budgets, with 31 programs receiving just \$1.8 million in funding from the state to provide volunteer guardian ad litem services to thousands of children heading into dependency courts that would decide their fates.

Several counties wanted to establish CASA programs, but could not afford to fund them. Others placed children with guardians ad litem on staff, some of whom worked on more than 100 cases at a time. There were long waiting lists of children needing help. In 2005, about 3,000 children did not receive services they requested—either from volunteer CASAs or paid court staff—and walked into dependency hearings without their own advocates.

The legislature provided an additional \$6 million in funding for CASA programs across Washington for the 2007-2009 biennia, for a total of \$7.8 million in state funding. As a result, many more abused and neglected children will have a voice in court and hope for a brighter future in a safe, supportive, permanent home.

Our hope is that one day; every child facing this difficulty will have an advocate to help them through the dependency hearing process.

Civil Legal Aid

One of the greatest accomplishments for the judiciary in the 2005 session was passage of legislation to address the unmet needs of our state's most vulnerable citizens who face important civil (not criminal) legal problems.

In 2005, the Legislature established the Office of Civil Legal Aid (OCLA) and the Civil Legal Aid Oversight Committee to administer and oversee the state's investment in civil legal aid services. Since 2005, the Office of Civil Legal Aid has successfully worked with the Legislature to secure funding for emergency civil representation of domestic violence victims and to address critical client service capacity gaps throughout the state. For example, funding was appropriated to allow the Northwest Justice Project (NJP), Washington's state-wide legal aid provider, to open a new office in Aberdeen to provide free legal assistance in civil matters to low-income families, individuals, senior citizens and tribal members in Grays Harbor and Pacific Counties. The opening marks the first time in more than 10 years that this area of our state has had a staffed legal aid presence.

In addition to the Aberdeen office, the \$5.27 million increase in funding appropriated by the Legislature for 2007-09 has allowed the NJP to open offices in Port Angeles and Longview; and a new office will open in Colville this spring. A portion of this appropriation will also be used to increase NJP's attorney presence throughout Eastern Washington, and to extend its statewide legal hotline to serve residents of King County.

The biennial increase represents another step in a multi-year strategy designed to respond to a civil legal aid crisis chronicled in the landmark 2003 Civil Legal Needs Study published by the Supreme Court's Task Force on Civil Equal Justice Funding.

That study found that more than three quarters of all low income households experienced an important civil legal problem each year, and that of these, nearly 9 in 10 did not receive necessary civil legal help. The Supreme Court's Task Force determined that an additional \$18.3 million per year was needed to close the "Justice Gap" documented in the Civil Legal Needs Study in areas of representation currently authorized under RCW 2.53.030. Since 2005, the Legislature has increased annualized funding by about \$4.3 million per year, still leaving a Justice Gap of about \$12 million per year.

Public Defense

Another major priority of the *Justice in Jeopardy* effort is to encourage the State to share more equitably in funding indigent defense services.

The legislature responded by appropriating funds to the Washington State Office of Public Defense (OPD) to enable it to provide technical assistance and training to public defenders. Funds were also directed to support indigent defense improvements in three pilot courts.

The Office of Public Defense (OPD) received an additional \$13.6 million for the biennium. Of that, \$7 million will be used to continue helping counties throughout Washington improve their indigent defense systems. Counties that make a commitment to improving their systems, and take demonstrable steps toward meeting minimum public defense standards, are eligible to apply to OPD for funding assistance.

OPD received \$6.6 million to expand its successful parent representation program. This program helps fund representation for parents in dependency hearings after a pilot program in 2000 found that equal representation resulted in faster and more efficient hearings, better services to families, and more reunifications. Eighteen counties have parent representation programs, and OPD is in the process of expanding the program into seven new counties: Chelan, Jefferson, Klickitat, Mason, Thurston, Skamania and Wahkiakum.

This legislative session, the Office of Public Defense will submit a supplemental budget request addressing two areas of immediate need:

- **Trial Court Criminal Defense:** \$1.744 million to ensure attorneys at juveniles' initial court appearance in Juvenile Court, and to reduce attorney caseloads.
- **Parents Representation Program:** \$1.9 million for mandatory caseload adjustments to cover 18 counties currently served by OPD's program, full program implementation for Whatcom County, and partial program implementation in King County.

Interpreter funding

For any resident of Washington with limited or non-English speaking skills who is called to court for a criminal, civil, domestic or juvenile case, a court interpreter plays a vital role in the judicial process.

For such an individual (including deaf and hard of hearing persons), the presence of a skilled interpreter can be as important as an attorney, judge or jury. Without a highly skilled and trained interpreter, they will not be able to communicate with

their attorney or understand what is being communicated in the legal process. Adequate language assistance is critical for meaningful participation in court processes.

Unfortunately, due to demographic changes in recent years, finding interpreters in the many languages spoken by our residents can be daunting for courts throughout our state. To remedy this situation, the Washington State Court Interpreter Program is adding a new category of interpreters – the registered category – for up to 50 languages. These are in addition to the ten languages in which Washington currently certifies interpreters.

The 2007 Legislature appropriated \$2 million for 2007-2009 to help trial courts implement Language Assistance Plans (LAP's) and improve interpreter services. Under a plan approved by the Board for Judicial Administration, funds will be distributed to ten multi-court initial implementation sites and data from those sites will help demonstrate the impact of state funding of court interpreter and language assistance services. The implementation sites will assist with the development and implementation of best practices in providing interpreter and language assistance services, and as a catalyst for improving such services statewide. Initial implementation sites include multi-court collaborations in Benton-Franklin, Chelan-Douglas, Clark, Kitsap, Okanogan, Pierce, Skagit, Snohomish and Yakima Counties, as well as a collaborative of ten municipal courts in South King County.

In addition, AOC staff helped nearly 100 trial courts create and begin implementing LAP's. Approximately \$170,000 will be distributed to trial courts to support a variety of LAP implementation projects and resources; and approximately \$40,000 will be reserved for state-level projects such as creation of consistent signage and translation of pattern forms. We will report back on the status of this initiative next year.

As you can see, we have made great strides in the past year. However, we still have a long road ahead. As I mentioned earlier, from the start of this significant effort, the Board for Judicial Administration (BJA)—a policy-setting body for the state's judiciary—recognized that securing adequate and stable funding for Washington's trial courts would require an incremental, long-term approach.

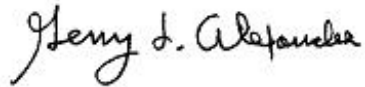
Accordingly, the *Justice in Jeopardy* initiative will continue this session with the modest request from the Office of Public Defense outlined in this letter and a more substantial package of requests in 2009.

On behalf of the dedicated judges of Washington State, allow me to thank you for your efforts to ensure the promise of equal justice for all Washington citizens. In large part, the cornerstone of this commitment rests upon adequate and stable funding for the trial courts and we pledge to stay the course in working with the Legislature to achieve this long-term goal. The actions already taken by this legislative body are important first steps for Washington's courts. We are deeply grateful for your continued support.

I would also like to express how pleased I am to serve alongside you as a leader in a separate, yet equal, branch of our state's government. I thank you for the warm welcome that you accord me and my fellow justices during the opportunities we gather together.

I wish you all the best in the year ahead, and extend an invitation for you to contact me or our State Court Administrator if you should have any questions regarding the initiatives outlined in this letter.

Sincerely,

A handwritten signature in cursive script that reads "Gerry J. Alexander". The signature is written in black ink and is positioned below the word "Sincerely,".

Chief Justice Gerry Alexander
Washington Supreme Court