



Washington State Office of Public Defense Application for Public Defense Funding Pursuant to Chapter 10.101 RCW

TO: County Officials
FROM: Joanne Moore, Director
DATE: July 1, 2009
RE: Procedure for applying for public defense funding for the 2010 calendar year

Applying for public defense funding

RCW 10.101.050 allows counties to apply for a pro rata share of appropriated state funds to improve the quality of public defense services for juveniles and adults. Attached is an application for state public defense funds (the application is also available at www.opd.wa.gov) and a table of the estimated pro rata share available to each county for calendar year 2010.

Please note that the estimated funding amounts for each county may differ from current funding amounts. The differences are due to new state budget and administrative factors as well as each county's increase or decrease in population and/or felony filings in 2008 compared to 2007. Population and felony filings are significant components of the funding distribution formula established in RCW 10.101.070.

Completed funding applications are due August 31, 2009. The Washington State Office of Public Defense (OPD) will notify applicants of funding authorization by late October and will disburse funds no later than mid-December 2009. Application materials may be submitted as an email attachment or in hard copy. (No faxes please.)

Chapter 10.101 RCW requires that the funds be used to make appreciable demonstrable improvements in the delivery of public defense services. Attached to this application is an updated policy on allowable uses for the funding. It is anticipated that each county's use of these funds will ordinarily be determined in consultation with the county courts and public defense attorneys.

RCW 10.101.060 conditions eligibility for continued funding upon a county's efforts to ensure that well-qualified attorneys handle the most serious cases; that county contracts provide funding for court-ordered expert and investigator costs and for compensation as ordered by the court for extraordinary cases; and that counties set up a valid method for appointing conflict counsel. Most county public defense agencies and contracts already meet these requirements. OPD will continue working with counties in 2010 regarding compliance with RCW 10.101's requirements.

For information regarding the improvement of public defense services or this application, contact OPD Public Defense Services Managers Kathy Kuriyama or David DeLong at kathy.kuriyama@opd.wa.gov or david.delong@opd.wa.gov.

County _____	Contact name/title _____
Mailing address _____	
Phone _____	Email _____

NOTE: Completed applications are due to OPD by August 31, 2009.

1. In 2008, the county paid indigent defense expenses as follows¹:

5a. \$ _____	512.81 – General Indigent defense	For jurisdictions that only report under this sub-category, all costs as defined in 512.80. For jurisdictions that report in multiple sub-categories, only costs not otherwise provided for by case type should be reported in this category, such as civil contempt proceedings in child support and paternity actions.
5b. \$ _____	512.82 – Adult Felony	All costs associated with providing legal counsel and services for indigent adult persons charged with a felony offense in the Superior Court and juvenile offenders charged with a felony under a statutory decline or following a decline hearing in Juvenile Court. Additionally, costs arising from the following actions should be reported in this category: fugitive complaints; special inquiry proceedings; material witness proceedings; coroner inquest proceedings; hearings or proceedings on remand from appellate courts; personal restraint petitions; and habeas petition hearings in Superior Court where counsel is appointed.
5c. \$ _____	512.83 – Adult Misdemeanor	All costs associated with providing legal counsel and services for indigent adult persons charged with a gross misdemeanor or misdemeanor offense in a district or municipal court including the cost of RALJ appeals to Superior Court.

¹ **BARS Code 512.80 defines Indigent Defense as follows:**

All costs associated with providing legal counsel and services for indigent persons in criminal, civil, and juvenile matters for which the provision of counsel at public expense is provided for by law. Costs to be included are attorney salaries and benefits of contract costs for conflict counsel fees, expert witnesses, investigators, psychological and other examinations, evidence testing, etc. Interpreter costs should only be included for non-court hearing related interpreter services or interpreter services not otherwise provided under the auspices of the trial court.

5d. \$ _____	512.84 – Juvenile Offender	All costs associated with providing legal counsel and services for indigent juvenile persons charged with a felony, gross misdemeanor or misdemeanor offense in Juvenile Court including motions to revise rulings by court commissioners in juvenile cases heard in Superior Court.
5e. \$ _____	512.85 – Juvenile Dependency and Termination of Parental Rights	All costs associated with providing legal counsel and services for indigent <u>parents</u> eligible for the appointment of counsel at public expense whose child(ren) are the subject of a dependency or termination of parental rights action in Juvenile Court. Costs associated with the appointment of an attorney to represent a child should be included in this category. Costs associated with the appointment of a guardian ad litem to represent the interests of a minor child should not be reported.
5f. \$ _____	512.86 – Truancy, At-Risk-Youth, CHINS	All costs associated with providing legal counsel and services for minor children named in a “BECCA case,” including at-risk-youth; child-in-need-of-services petitions; and truancy hearings.
5g. \$ _____	512.87 – Civil Commitments – Mental Health/Alcohol	All costs associated with providing legal counsel and services for indigent adults and minor children subject to mental health and alcohol commitment proceedings. This category also includes other miscellaneous commitments, e.g. infectious disease commitment petitions.
5h. \$ _____	512.88 – Civil Commitments – Sexual Predator	All costs associated with providing legal counsel and services for indigent adults subject to a sexual predator petition.
5i. \$ _____	512.89 – Extraordinary Criminal Case Expenses	All costs associated with providing legal counsel and services for indigent adults or juveniles charged with a crime in superior or juvenile court for which a jurisdiction may be eligible for reimbursement of expenses under the extraordinary criminal justice expense act (RCW 43.330.190).

The above information was () was not () derived from the State Auditor’s Budgeting Accounting & Reporting System (BARS) categories. If BARS category codes are not currently used for public defense budget reporting, when will the BARS reporting system be implemented?

1i. If the county paid for attorneys to represent children in juvenile dependency and termination of parental rights actions, please list the total spent for children’s representation. \$ _____

2. In 2008, attorneys providing indigent defense representation had the following caseloads:

Fill in section 2(a) if the county has a public defender agency, such as a department of assigned counsel or one or more non-profit public defense firm(s) whose practice is limited to public defense.

2(a) Counties with public defender agencies.	Number of cases assigned to public defender (see question 2i below)	Number of probation violations and other miscellaneous hearings assigned	Number of full-time equivalent public defenders	Number of cases assigned to conflict counsel	Average per attorney caseload, if available
Superior Court adult felonies					
District Court adult misdemeanors and gross misdemeanors (see question 2ii below)*					
Juvenile Court offender cases					
Juvenile Court dependency/termination cases					
“Becca” cases (truancy contempt, at-risk youth, CHINS)					
Civil commitment-Mental Health/Alcohol					

2i. How does the court count case assignments when an attorney withdraws from a case before the case is completed and later another attorney is appointed? For example, if the appointed attorney withdraws because the defendant has disappeared and a warrant is issued, and later the defendant returns and another attorney is appointed, does this get counted as two cases? _____

2ii. Does the number of District Court cases reported above include any municipal court cases for which the county provides public defense? Yes () No () If yes, how many are municipal court cases?

Fill in section 2(b) if the county contracts with private attorneys/firms for public defense services or if public defense attorneys are appointed by the court from a list.

2(b) Counties with contract or list-appointed public defense attorneys	Number of cases assigned to public defense attorneys(see question 2i above)	Number of probation violations and other miscellaneous hearings assigned	Number of attorneys with public defense contracts (or on court’s appointment list)	Average per attorney caseload, if available
Superior Court adult felonies				
District Court adult misdemeanors and gross misdemeanors (see question 2ii above)				
Juvenile Court offender cases				
Juvenile Court dependency/termination cases				
“Becca” cases (truancy contempt, at-risk youth, CHINS)				
Civil commitment-Mental Health/Alcohol				

3. If the county has public defense contracts, complete the Table of Public Defense Contracts (Table I), and provide a copy of each current contract in alphabetical order by attorney name. (If possible, please provide scanned copies of contracts, by CD or email attachment. Hard copies are acceptable.)
4. If the county trial courts appoint public defense attorneys from a list, provide the name of each attorney and the compensation paid per case or per hour in the Table of List-Appointed Public Defense Attorneys (Table II).
5. Please indicate in the table below **and** attach a narrative paragraph explaining how the county used its RCW 10.101 funds in 2009, and how the county's 2010 funds will be used. (The table below reflects common uses of funds. See the attached policy for a list of allowed uses.)

Common Uses of State Funding:	2009	2010
Creating a county or regional public defense agency		
Providing an attorney coordinator who oversees contracts with attorneys providing public defense		
Adding attorneys to lower public defense caseloads		
Adding investigator services		
Adding expert services		
Increasing public defense attorney compensation		
Providing public defense services at preliminary appearance calendars		
Providing interpreter services for attorney-client interviews and communications		
Other (please explain) _____ _____		

6. In accordance with RCW 10.101.050 and RCW 10.101.060:
 - a. Does the county require private attorneys who contract to provide public defense services to report all of their public defense contracts and "hours billed for nonpublic defense legal services ... including number and types of private cases?" Yes () No () If no, please explain the situation. (See attached OPD "Time Reporting Policy.")

 - b. Does the county require attorneys who provide public defense services to attend seven hours of OPD-approved training per calendar year? Yes () No () If no, please explain the situation. (See attached OPD "Training Policy.")

 - c. Does the county provide for extra compensation in cases of extraordinary complexity? Yes () No () If no, please explain the situation.

 - d. Does the county identify funds specifically for the purpose of paying defense experts? Yes () No () If no, please explain the situation.

- e. Does the county identify funds specifically for the purpose of paying defense investigators?
Yes () No () If no, please explain the situation.
-
-
- f. Do the county's public defense contracts require the contract attorneys to compensate conflict counsel, investigators or experts from the proceeds of the contract? Yes () No () If yes, please explain the situation.
-
-
7. Who does the county designate to receive and investigate complaints about public defense services? Please provide the name and contact information for the person/office.
-
8. How are indigent defendants notified of the complaint policy and procedure?
-
9. Does the Superior Court administer any criminal specialty courts (for example, drug court or mental health court)? Yes () No () If yes, what type(s) of specialty court(s)?
-
10. Does the District Court administer any criminal specialty courts (for example, mental health court or drug court)? Yes () No () If yes, what type(s) of specialty court(s)?
-
11. Does the county offer any adult diversion programs? Yes () No () If yes, describe the diversion program(s).
-
12. Does the Superior Court in criminal matters routinely provide a public defense attorney to represent indigent defendants at:
- In-custody preliminary appearance calendars (as defined by CrR 3.2.1)? Yes () No ()
 - Out-of-custody preliminary appearance calendars? Yes () No ()
 - If a defendant requests counsel at the preliminary appearance calendar, is the case continued pending appointment? Yes () No ()
13. In juvenile offender matters does the Juvenile Court routinely provide a public defense attorney to represent indigent juvenile defendants at:
- Every in-custody first appearance (as defined in JuCR 7.3 & 9.2(d)? Yes () No ()
 - Every out-of-custody first appearance? Yes () No ()
 - If a juvenile requests counsel at first appearance, is the case continued pending appointment? Yes () No ()
14. Does the District Court in criminal matters routinely provide a public defense attorney to represent indigent defendants at:
- In-custody first appearance calendar (as defined by CrRLJ 3.2.1)? Yes () No ()
 - Out-of-custody preliminary appearance calendars? Yes () No ()
 - If a defendant requests counsel at the preliminary appearance calendar, is the case continued pending appointment? Yes () No ()

15. Please describe the county's indigency screening procedure and attach any related written county policies or screening documents used in Superior Court.

16. Please describe the county's indigency screening procedure and attach any related written county policies or screening documents used in juvenile offender matters.

17. Please describe the county's indigency screening procedure and attach any related written county policies or screening documents used in District Court.

Certification:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information is true and correct.

Signature

Date

Printed Name

Title

Place

**RCW 10.101 Estimated 2009 County Funding Distribution
For Use During Calendar Year 2010**

County	2008 Population	2008 Criminal Filings	2009 Total Distribution
Adams	17,800	227	\$29,300
Asotin	21,400	240	\$31,521
Benton	165,500	1,286	\$151,489
Chelan	72,100	719	\$80,289
Clallam	69,200	554	\$69,367
Clark	424,200	2,204	\$310,135
Columbia	4,100	43	\$12,897
Cowlitz	99,000	1,476	\$135,885
Douglas	37,000	251	\$38,466
Ferry	7,700	49	\$14,704
Franklin	70,200	520	\$67,761
Garfield	2,300	17	\$10,634
Grant	84,600	834	\$92,130
Grays Harbor	70,900	641	\$75,195
Island	79,300	366	\$62,331
Jefferson	28,800	268	\$36,162
King	1,884,200	8,869	\$1,293,186
Kitsap	246,800	1,520	\$198,125
Kittitas	39,400	339	\$44,635
Klickitat	20,100	147	\$25,500
Lewis	74,700	886	\$91,209
Lincoln	10,400	63	\$16,621
Mason	56,300	603	\$67,058
Okanogan	40,100	360	\$46,159
Pacific	21,800	207	\$29,732
Pend Oreille	12,800	58	\$17,294
Pierce	805,400	6,140	\$696,583
San Juan	16,100	60	\$18,744
Skagit	117,500	1,017	\$116,222
Skamania	10,700	134	\$20,939
Snohomish	696,600	3,025	\$468,576
Spokane	459,000	4,108	\$436,708
Stevens	43,700	314	\$44,893
Thurston	245,300	2,351	\$246,634
Wahkiakum	4,100	34	\$12,365
Walla Walla	58,600	490	\$61,307
Whatcom	191,000	1,696	\$186,011
Whitman	43,000	248	\$40,710
Yakima	235,900	2,612	\$258,267
Total	6,587,600	44,976	\$5,655,744

Note: The estimated 2009 funding amounts for each county may differ from current funding amounts. Funding differences are due primarily to a county's increase or decrease in felony filings in 2008 compared to 2007. Felony filings are a significant factor in the funding distribution formula established by RCW 10.101.070.