



Internet Email: opd@opd.wa.gov

**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

(360) 586-3164
FAX (360) 586-8165

TO: County Officials
FROM: Joanne Moore, Director
DATE: June 7, 2016
RE: Procedure for applying for state public defense funding for the 2016 calendar year

Applying for Public Defense Funding

[RCW 10.101.050](#) allows counties to apply for a pro rata share of state funds available to improve the quality of public defense services for juveniles and adults. Attached is an updated application for state public defense funds and a table of the estimated pro rata share available to each county for use during calendar year 2017. Application materials also are available at www.opd.wa.gov.

Please note that the estimated funding amount for each county may differ from current funding amounts. The differences may be due to changes in the legislative appropriation as well as each county's increase or decrease in population and/or felony filings. Population and felony filings are significant components of the funding distribution formula established in [RCW 10.101.070](#).

Complete applications are due at the Washington State Office of Public Defense (OPD) by 5 p.m., Wednesday, August 31. OPD will notify applicants of funding authorization by late October and will disburse funds no later than the first week of January 2017. Applications should be submitted as an email attachment to Nicole Dodge at Nicole.Dodge@opd.wa.gov.

Per [RCW 10.101.060](#), counties in receipt of state funds must document that they are meeting the [WSBA Standards for Indigent Defense Services](#), or that funds are being used to make appreciable demonstrable improvements in the delivery of public defense services. Attached is a policy on allowable uses for the funding. Pursuant to statute and OPD policy, state funds cannot be used to supplant county funds that were being spent on public defense services prior to the initial disbursement of state funds (2006 for most counties).

[RCW 10.101.060](#) also conditions eligibility for continued funding upon a county's efforts to ensure that well-qualified attorneys handle the most serious cases; that contracts with attorneys provide for funding of expert and investigator costs independent of attorney compensation; and that counties set up a valid method for appointing conflict counsel. OPD managing attorneys are available to work with counties regarding compliance with Chapter 10.101 RCW as well as applicable case law and court rules, including the state Supreme Court's Standards for Indigent Defense and Certification of Compliance. OPD has also made available a variety of [resources for assistance in implementation of the Standards](#) and caseload limits, such as: an FAQ on the Standards, web tutorials, sample caseload calculators, and a customizable model misdemeanor case weighting policy.

For information regarding the improvement of public defense services or this application, contact OPD Public Defense Services Managers Katrin Johnson Katrin.Johnson@opd.wa.gov, 360-586-3164 ext. 108 or George Yeannakis, George.Yeannakis@opd.wa.gov, 360-586-3164 ext. 102.

APPLICATION FOR RCW 10.101 COUNTY GRANTS

County: _____

Contact Name: _____

Title: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____

Email Address: _____

“Statewide Vendor Number”: _____

For more information see:

<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>

NOTE: Completed applications are due to OPD by 5 p.m., Wednesday, August 31, 2016.

Section I: Public Defense Expenditures/Budget

1.1 In 2015, the county paid indigent defense expenses as follows:

a. General Indigent Defense: _____ \$

For jurisdictions that only report under this sub-category, include all costs. 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.

b. 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.

c. 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.

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Section II: Case Assignments

2.1 In 2015, attorneys providing indigent defense representation had the following caseloads:

- a. If the county uses 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, please provide the information below. Be sure to indicate the actual number of cases, not case weights or points for payment.

Types of Cases	No. of cases assigned to public defender (<i>NOT including conflict counsel</i>)	No. of probation violations/other miscellaneous post sentencing hearings assigned	No. of full-time equivalent public defenders	No. of cases assigned to conflict counsel	Average per attorney caseload
Superior Court adult felonies					
District Court adult misdemeanors and gross misdemeanors					
Juvenile Court offender cases					
Juvenile Court dependency/termination case					
"Becca" cases (truancy contempt, at-risk-youth, CHINS)					
Civil commitment – mental health/alcohol					

- b. If the county uses **contracts with private attorneys/firms** for public defense services or if public defense attorneys are appointed by the court from a list, fill in the section below.

Types of Cases	No. of cases assigned to public defense attorneys	No. of probation violations/other miscellaneous post sentencing hearings assigned	No. of attorneys with public defense contracts (or on court's appointment list)	Average per attorney caseload
Superior Court adult felonies				

APPLICATION FOR RCW 10.101 COUNTY GRANTS

District Court adult misdemeanors and gross misdemeanors				
Juvenile Court offender cases				
Juvenile Court dependency/termination				
“Becca” cases (truancy contempt, at-risk-youth, CHINS)				
Civil commitment – mental health/alcohol				

- c. How does the court count case assignments when an attorney withdraws from a case before it 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 the court count two cases?

2.2 Has the county adopted a case-weighting policy as allowed for in Standard 3 of the Standards adopted by the WSBA and the Washington State Supreme Court (CrR 3.1, CrRLJ 3.1 and JuCR 9.2)? If yes, please attach the county’s case-weighting policy.

Yes _____ No _____

2.3 In terms of attorney caseload management, what is the county’s method of counting probation violations and other post-sentencing hearings?

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Section III: Grant Funds

3.1 Please indicate in the table below and attach a narrative paragraph explaining how the county used RCW 10.101 funds in 2016, and how the funds will be used in 2017. The table below reflects common allowed uses of funds. See the attached policy for a list of allowed and prohibited uses. Note that state funds cannot be used to supplant county funds that were being spent on public defense services prior to the initial disbursement of state funds (2006 for most counties).

Common Allowed Uses of State Funding:	2016	2017
Creating a county or regional public defense agency		
Providing an attorney coordinator who oversees contracts with attorneys providing public defense		
Adding attorneys to reduce 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)		
(Use this space for the narrative paragraph detailed above, or use additional pages if needed)		

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Section IV: Court/County Information

4.1 Has the county adopted or recently updated a public defense standards ordinance as required by [RCW 10.101.030](#)? If yes, please attach the current standards ordinance or relevant section of the county code.

Yes _____ No _____

If no, please explain:

4.2 Does the Superior Court administer any adult or juvenile specialty courts (for example, drug court or mental health court)? If yes, what type(s) of specialty court(s)?

Yes _____ No _____

4.3 Does the District Court administer any criminal specialty courts (for example, mental health court or drug court)? If yes, what type(s) of specialty court(s)?

Yes _____ No _____

4.4 Does the county offer any pre-filing or post-filing adult diversion programs, including relicensing programs? If yes, please describe the program(s).

Yes _____ No _____

4.5 Please describe the county's indigency screening procedure ([RCW 10.101.010 – 020](#)), including fees charged (if any), and attach any related written county policies or screening documents used in:

APPLICATION FOR RCW 10.101 COUNTY GRANTS

a. Superior Court

b. District Court

c. Juvenile offender matters

4.6 Does the county provide public defense services for a city or cities?

Yes _____ No _____

If yes, name the city/cities: _____

4.7 Does the number of District Court cases reported in Question 2.1 include any municipal court cases for which the county provides public defense?

Yes _____ No _____

If yes, how many municipal court cases? _____

4.8 Who is the appropriate person(s) to contact with questions about attorney caseloads in your county?

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Section V: Washington State Bar Association Standards for Indigent Defense Services

RCW 10.101.060 requires each county that receives state funds to document to the Washington State Office of Public Defense that it is meeting the WSBA Standards for Indigent Defense Services, or that the funds are being used to make “appreciable, demonstrable improvements in the delivery of public defense services.” The following questions address many of the provisions set forth in statute and the WSBA Standards for Indigent Defense Services.

Standard One: Compensation

5.1 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:

5.2 Does the county provide for extra compensation in cases of extraordinary complexity?

Yes _____ No _____

If no, please explain:

5.3 If public defense is provided by attorneys employed by a public defense agency, are compensation and benefit levels comparable to local prosecuting attorneys?

Yes _____ No _____ N/A _____

If no, please explain:

5.4 Are compensation amounts for contracted attorneys sufficient to cover administrative costs such as travel, telephone, technology, office space, supplies, and training?

Yes _____ No _____

APPLICATION FOR RCW 10.101 COUNTY GRANTS

If no, please explain:

Standard Two: Duties and Responsibilities

5.5 In the Superior Court in criminal matters, are public defense attorneys present and representing defendants at:

- a. In-custody first appearance hearings where bail is addressed (defined in [CrR 3.2.1](#))? Yes _____ No _____

If no, please describe when and how defendants have access to counsel:

- b. Out-of-custody first appearance hearings? Yes _____ No _____

If no, please describe when and how defendants have access to counsel:

5.6 In juvenile offender matters, are public defense attorneys present and representing juvenile defendants at:

- a. Every in-custody first appearance hearing where bail is addressed (as defined in [JuCR 7.3](#) and [JuCR 9.2\(d\)](#))? Yes _____ No _____

If no, please describe when and how juvenile defendants have access to counsel:

- b. Every out-of-custody first appearance hearing? Yes _____ No _____

If no, please describe when and how juvenile defendants have access to counsel:

APPLICATION FOR RCW 10.101 COUNTY GRANTS

5.7 In the District Court in criminal matters, are public defense attorneys present and representing defendants at:

a. In-custody first appearance hearings where bail is addressed (as defined by [CrRLJ 3.2.1](#))? Yes _____ No _____

If no, please describe when and how defendants have access to counsel:

b. Out-of-custody first appearance hearings? Yes _____ No _____

If no, please describe when and how defendants have access to counsel:

Standard Three: Caseload Limits

5.8 Do the county’s public defense contracts (and subcontracts, if applicable) specify types of cases for which representation shall be provided and the maximum number of cases each attorney shall be expected to handle? Yes _____ No _____

If no, please explain:

5.9 Are the caseloads of the public defense attorneys (including private cases and public defense cases from other jurisdictions) within the limits set by the Washington Supreme Court ([CrRLJ 3.1](#))? Yes _____ No _____

If no, please explain:

Standard Four: Responsibility for Expert Witnesses

5.10 Does the county identify funds specifically for the purpose of paying defense experts? Yes _____ No _____

APPLICATION FOR RCW 10.101 COUNTY GRANTS

If no, please explain:

Standard Five: Administrative Costs

5.11 Do the county public defense attorneys have offices or access to private meeting space to accommodate confidential meetings with clients?

Yes _____ No _____

If no, please explain:

Standards Six and Seven: Investigators and Support Services

5.12 Does the county identify funds specifically for the purpose of paying defense investigators?

Yes _____ No _____

If no, please explain:

5.13 In 2015, did the public defense attorneys use investigative services?

Yes _____ No _____

If no, please explain:

Standard Eight: Reports of Attorney Activity

5.14 Do the public defense attorneys maintain a case reporting and case management system?

Yes _____ No _____

If yes, do the attorneys report the following to the county?

a. Number and type of cases?

Yes _____ No _____

APPLICATION FOR RCW 10.101 COUNTY GRANTS

b. Attorney hours? Yes _____ No _____

c. Dispositions? Yes _____ No _____

Please describe any other reported data:

Standard Nine: Training

5.15 Does the county require attorneys who provide public defense services to attend seven hours of OPD-approved training at least once a calendar year? Yes _____ No _____

If no, please explain: *(See attached OPD Training Policy)*

Standards Ten and Eleven: Supervision, Monitoring and Evaluation of Attorneys

5.16 Which individual/entity maintains the attorney certifications filed in your county's courts?

How are the certifications made available for public review?

5.17 Apart from filing certification forms, how is the county monitoring attorney compliance with the Supreme Court Standards for Indigent Defense and other contract requirements (e.g. caseloads, case-related qualifications, scope of representation, scope of work)?

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Standard Twelve: Substitution of Counsel

5.18 Do any of the contracted public defense attorneys sub-contract with another firm or attorney to provide representation?

Yes _____ No _____

If yes, please describe any practices put in place by the county to ensure that subcontracted attorneys meet professional standards:

5.19 Please describe the procedure for providing continued representation of existing clients after a contract has been terminated:

Standard Thirteen: Limitations on Private Practice

5.20 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: *(See attached OPD Time Reporting Policy.)*

Standard Fourteen: Qualifications of Attorneys

5.21 Do all attorneys providing public defense services in the county meet the qualification requirements as identified in Standard Fourteen of the WSBA Standards for Indigent Defense Services?

Yes _____ No _____

If no, please explain:

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Standard Fifteen: Disposition of Client Complaints

5.22 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.

5.23 How are indigent defendants notified of the county's complaint policy and procedure?

Please provide a copy of the county's complaint procedure, complaint form, or any other relevant documentation.

Standards Sixteen, Seventeen, and Eighteen: Termination/Removal, Non-Discrimination, and Guidelines for Awarding Defense Contracts

5.24 Do the contracts for public defense attorneys include non-discrimination clauses?

Yes _____ No _____

If no, please explain:

5.25 Briefly describe the process and criteria used for selecting contract public defense attorneys:

5.26 Are county attorneys, county prosecutors, or law enforcement officers involved in the selection of public defense attorneys?

Yes _____ No _____

If yes, please describe:

APPLICATION FOR RCW 10.101 COUNTY GRANTS

Section VI: Attachments and Tables

6.1 If the county has public defense contracts, complete the Table of Public Defense Contracts (Table I on page 16), and provide a copy of each current contract in alphabetical order by attorney name. Please include contracts between attorneys and county, as well as any subcontracts (if applicable) with attorneys who are subcontracted for public defense services. Please provide scanned copies of contracts, by CD or email attachment. Failure to provide current contracts could result in an incomplete application.

6.2 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 on page 17).

6.3 Please include the following items with the county's application. Failure to include any of the required items could result in an incomplete application.

- Case-weighting policy, if applicable (*see question 2.2*)
- Narrative detailing county's proposed use for state funding (*see question 3.1*)
- County's public defense ordinance (*see question 4.1*)
- Indigency screening forms and related documents (*see question 4.5*)
- Policy/Procedures for monitoring attorney performance under the county's public defense contracts (*see questions 5.17 and 5.18*)
- Complaint procedure, forms or other relevant documentation (*see question 5.23*)
- Currently effective public defense contracts (*see question 6.1*)
- Other relevant information (*applicant's discretion*)

Declaration

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

Estimated State Funding Distribution to Counties for Calendar Year 2017

County	2015 OFM Population Estimate	2015 Superior Court Filings	Estimated Distribution
Adams	19,410	154	\$28,352
Asotin	22,010	206	\$33,084
Benton	188,590	1,454	\$189,547
Chelan	75,030	850	\$100,261
Clallam	72,650	476	\$72,946
Clark	451,820	2,588	\$377,774
Columbia	4,090	42	\$14,158
Cowlitz	104,280	1,494	\$157,652
Douglas	39,990	231	\$42,247
Ferry	7,710	70	\$17,620
Franklin	87,150	595	\$87,295
Garfield	2,260	17	\$11,644
Grant	93,930	857	\$108,536
Grays Harbor	73,110	515	\$75,881
Island	80,600	263	\$61,220
Jefferson	30,880	200	\$36,313
King	2,052,800	6,406	\$1,305,769
Kitsap	258,200	1,535	\$223,910
Kittitas	42,670	359	\$52,364
Klickitat	21,000	148	\$28,584
Lewis	76,660	723	\$91,989
Lincoln	10,720	85	\$19,915
Mason	62,200	594	\$76,952
Okanogan	41,860	482	\$60,691
Pacific	21,210	235	\$34,797
Pend Oreille	13,240	117	\$23,206
Pierce	830,120	5,245	\$720,622
San Juan	16,180	36	\$18,713
Skagit	120,620	1,125	\$138,396
Skamania	11,430	76	\$19,574
Snohomish	757,600	2,813	\$519,512
Spokane	488,310	5,000	\$562,642
Stevens	44,030	279	\$47,290
Thurston	267,410	1,888	\$252,559
Wahkiakum	3,980	39	\$13,901
Walla Walla	60,650	407	\$63,146
Whatcom	209,790	1,570	\$206,443
Whitman	47,250	231	\$45,236
Yakima	249,970	1,882	\$244,956