



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 1, 2018
RE: OPD Updates and Application for State Public Defense Funding for Calendar Year 2019

OPD Updates

- In 2017 OPD launched its first annual **Juvenile Defense Training Academy** – a curriculum designed to train attorneys on legal and practical skills unique to defending youth in offender cases. Attorneys interested in joining this year’s Academy should contact George.Yeannakis@opd.wa.gov or Nicole.Dodge@opd.wa.gov. Graduates of the Academy are:

Sharonda Amamilo (Thurston Co.)	Amy Jones (Whatcom Co.)
Trena Berton (Island Co.)	Amanda Kleespie (Grays Harbor Co.)
Michael Borge (Clark Co.)	Ashwin Kumar (King Co.)
Tirsa Butler (Mason Co.)	Megan Manlove (Spokane Co.)
Lawrence Delay (San Juan Co.)	Michael Morris (King Co.)
Krista Elliott (Spokane Co.)	Alexandra Narvaez (King Co.)
Patricia Fassett (Cowlitz Co.)	Kathy Prunty (Skagit Co.)
Susan Goolsbee (Skagit Co.)	Danielle Purcell (Benton Co. and Franklin Co.)
Clarence Henderson (Pierce Co.)	
- OPD continues to provide **technical assistance** to counties regarding public defense administration. Please contact Katrin.Johnson@opd.wa.gov or George.Yeannakis@opd.wa.gov for assistance on topics such as: attorney contracts and compensation, local public defense standards, application of the Washington Supreme Court’s caseload limits, resources for attorney training, and other aspects relating to public defense administration.
- For more information on OPD’s Public Defense Improvement Program, recent trends, and county-level statistics, please see OPD’s recently released [2017 Status Report on Public Defense in Washington State](#) available at www.opd.wa.gov.

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 2019. 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](#).

Completed applications are due at the Washington State Office of Public Defense (OPD) by 5 p.m., Thursday, August 13, 2018. OPD will notify applicants of funding authorization by October and will disburse funds no later than the first week of January 2019. Applications should be submitted as a PDF 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 to public defense services. Attached is a policy on allowable uses for the funding. Pursuant to statute, 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](#) 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; 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. 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.

2018 Application for Chapter 10.101 RCW Public Defense Improvement Funds

The information provided in this Application must reflect all county public defender services including public defense agencies, contract services and appointed counsel. If public defense services are provided through different county offices, all county-wide information must be consolidated into this application.

Please do not leave any answers blank. If the question calls for information that is not available, please enter n/a.

County: _____

Contact Name: _____

Title: _____

Mailing Address: _____

City: _____ **Zip Code:** _____

Phone: _____

Email Address: _____

State 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., Monday, August 13, 2018.

Section I: 2017 County Public Defense Expenditures

1.1 In 2017, the total costs for county indigent defense services were as follows:

a. General Indigent Defense: _____ \$ _____

For jurisdictions that only report under this sub-category, include all costs. Please also answer c(1) and c(2) below. For jurisdictions that report in multiple sub-categories, include costs not otherwise provided for by case type below, such as civil contempt proceedings in child support and paternity actions. If applicable, include other expenses not already included below, such as overhead or central services.

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 including the cost of RALJ appeals to Superior Court.

(1) Does the county provide public defense services for any cities? If yes, which ones?

Yes _____ No _____

(2) If yes, does the above amount include expenses for defense in municipal cases? If yes, how much?

Yes _____ No _____

d. 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.

e. Juvenile Dependency and Termination of Parental Rights – Representation of Parents:

\$ _____

All costs associated with providing legal counsel and services for indigent parents 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. (Do not include expenses already covered by the Parents Representation Program of the Washington State Office of Public Defense.) Costs associated with the appointment of a guardian ad litem to represent the interests of a minor child should not be reported.

f. Juvenile Dependency and Termination of Parental Rights – Representation of Children:

\$ _____

All costs associated with providing legal counsel and services for children eligible for the appointment of counsel at public expenses who are subject to a dependency or termination of parental rights action in Juvenile Court. (Do not include expenses already covered by the Children’s Representation Program of the Washington State Office of Civil Legal Aid.) Costs associated with the appointment of a guardian ad litem to represent the interests of a minor child should not be reported.

g. 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.

h. 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.

i. Extraordinary Criminal Case Expense: _____ \$ _____

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](#)).

Was the above information derived from the State Auditor's Budgeting & Reporting System (BARS) categories?

Yes _____ No _____

1.2 Out of the amount(s) listed in question 1.1, approximately how much was spent on the following public defense services in 2017?

Investigation: _____ \$ _____

Experts: _____ \$ _____

Social workers/social service/mitigation experts: _____ \$ _____

Interpreter services for attorney-client meetings: _____ \$ _____

Section II: 2017 Case Assignments

2.1 In 2017, attorneys providing indigent defense representation had the following case assignments:

- a. If the county uses a **public defender agency**, such as a department of assigned counsel or a non-profit public defense firm whose practice is limited to public defense, provide the information below regarding **staff attorney case assignments**. Please be sure to indicate the actual number of cases, not case weights or payment points.

Types of Cases	# of cases assigned to agency attorneys	# of probation violations/other post sentencing cases assigned	# of FTE public defense agency attorneys	Average per-attorney caseload
Superior Court adult felonies				
District Court misdemeanors and gross misdemeanors				
Juvenile Court offender cases				
Juvenile Court dependency/termination cases				
“Becca” cases (truancy contempt, at-risk-youth, CHINS)				
Civil commitment – mental health/alcohol				
Appeals from Courts of Limited Jurisdiction to Superior Court (RALJ)				

- b. Fill in the section below for cases assigned to **private attorneys/firms** that **contract** with the county for public defense services, or for attorneys/firms **assigned** to public defense cases by list appointment. Please be sure to indicate the actual number of cases, not case weights or payment points.

Types of Cases	# of public defense cases assigned to attorneys	# of probation violations/other post sentencing cases assigned	# of attorneys with public defense contracts (or on appointment list)
Superior Court adult felonies			
District Court 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			
Appeals from Courts of Limited Jurisdiction to Superior Court (RALJ)			

c. If the county provides public defense services for cities, do the misdemeanors and gross misdemeanors contained in the Tables above include municipal cases? **Yes** _____ **No** _____ **N/A** _____

If yes, how many? _____

d. 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 What is the county’s method for counting probation violations and other post-sentencing cases?

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

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 2018, and how the funds will be used in 2019. 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:	2018	2019
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 use - supported by the WSBA Standards for Indigent Defense Services (please explain)		
(Use this space for the narrative paragraph detailed above, or use additional pages if needed)		

Section IV: Court/County Information

4.1 In what year did the county last update its public defense standards ordinance as required by [RCW 10.101.030](#)? Please attach the current standards ordinance or relevant section of the county code, or provide a web link if it is posted online.

Year: _____

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 typically charged (if any), and attach any related written county policies or screening documents used in:

a. Superior Court

b. District Court

c. Juvenile offender matters

4.6 If attorney costs are ordered at sentencing, is there a standard recoupment amount or does it vary?

Superior Court

- Standard Amount: \$ _____
- Amount Varies (typical range): \$ _____
- Recoupment of attorney costs is rarely or never ordered

District Court

- Standard Amount: \$ _____
- Amount Varies (typical range): \$ _____
- Recoupment of attorney costs is rarely or never ordered

Juvenile Court

- Standard Amount: \$ _____
- Amount Varies (typical range): \$ _____
- Recoupment of attorney costs is rarely or never ordered

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 state 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 (and sub-contracts, if applicable) 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? [RCW 10.101.060\(1\)\(a\)](#)

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 and sub-contracted attorneys sufficient to cover administrative costs such as travel, telephone, technology, office space, supplies, insurance, taxes and training?

Yes _____ No _____

If no, please explain:

Standard Two: Duties and Responsibilities

5.5 In the Superior Court, 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 first have access to counsel:

b. Out-of-custody first appearance hearings?

Yes _____ No _____

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

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

- a. 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 first have access to counsel:

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

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

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 first have access to counsel:

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

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

Standard Three: Caseload Limits

5.8 Do the county's public defense contracts (and subcontracts, if applicable) specify the 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?

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? [RCW 10.101.060\(1\)\(a\)](#) Yes _____ No _____

If no, please explain:

5.11 In 2017 did the public defense attorneys use expert witnesses?

Superior Court felonies: Yes _____ No _____

District Court cases: Yes _____ No _____

Juvenile Offender cases: Yes _____ No _____

If no, please explain:

Standard Five: Administrative Costs

5.12 Do all county public defense attorneys (including contracted, sub-contracted and list-appointed 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

5.13 Does the county identify funds specifically for the purpose of paying defense investigators? [RCW 10.101.060\(1\)\(a\)](#) Yes _____ No _____

If no, please explain:

5.14 In 2017 did the public defense attorneys use investigative services?

Superior Court felonies: Yes _____ No _____

District Court cases: Yes _____ No _____

Juvenile Offender cases: Yes _____ No _____

If no, please explain:

Standard Eight: Reports of Attorney Activity

5.15 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 _____

b. Attorney hours?

Yes _____ No _____

c. Dispositions?

Yes _____ No _____

Please describe any other reported data:

If available, please attach a template or sample report.

Standard Nine: Training

5.16 Does the county require public defense attorneys to attend seven hours of training related to criminal defense each calendar year? [RCW 10.101.050](#)

Yes _____ No _____

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

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

5.17 Which individual/entity maintains the attorney certifications filed in your county's courts? [CrR 3.1\(d\)\(4\)](#), [CrRLJ 3.1\(d\)\(4\)](#), [JuCR 9.2\(d\)\(1\)](#)

How are the certifications made available for public review?

5.18 Has someone from the county verified that all attorneys that provide public defense representation in your county filed certifications for the first and second quarters of 2018?

Yes _____ No _____

If no, when is the last time the certifications were verified for all attorneys providing public defense services?

5.19 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)?

Standard Twelve: Substitution of Counsel

5.20 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 as required by [RPC 1.8\(m\)\(1\)](#):

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

Standard Thirteen: Limitations on Private Practice

5.22 Does the county require contract or list-appointed public defense attorneys 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 and [RCW 10.101.050](#).)

Standard Fourteen: Qualifications of Attorneys

5.23 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:

Standard Fifteen: Disposition of Client Complaints

5.24 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.

5.25 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

5.26 Do the contracts for public defense attorneys include non-discrimination clauses? Yes _____ No _____

If no, please explain:

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

5.28 Are county attorneys, county prosecutors, or law enforcement officers involved in the selection of public defense attorneys? [RCW 10.101.040](#) Yes _____ No _____

If yes, please describe:

Section VI: Improvements to and Challenges with Public Defense

6.1 In recent years, what have been some specific budgetary, administrative, policy or other changes that have improved county public defense services?

6.2 In recent years, what have been some challenges to delivering county public defense services? Have those challenges been resolved? Please explain.

Section VII: Attachments and Tables

7.1 If the county has public defense contracts, complete the Table of Public Defense Contracts (see Table I on next page), 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 attorney subcontracts (if applicable). Please provide scanned copies of contracts, by CD or email attachment. Failure to provide current contracts could result in an incomplete application ([RCW 10.101.050](#)).

7.2 If the county appoints public defense attorneys from a list, provide the name of each attorney and the compensation rate in the Table of List-Appointed Public Defense Attorneys (see Table II).

7.3 If available and applicable, provide an organizational chart of the county public defense agency/agencies or non-profit public defense agency.

7.4 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 standards (*see question 4.1*)
- Indigency screening forms and related documents (*see question 4.5*)
- Sample template or report for monthly or quarterly attorney activity (*see question 5.15*)
- Policy/Procedures for monitoring attorney performance under the county's public defense contracts (*see question 5.19*)
- Complaint procedure, forms or other relevant documentation (*see question 5.25*)
- Currently effective public defense contracts (*see question 7.1*)
- 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 2019

County	2017 OFM Population Estimate*	2017 Superior Court Filings**	Estimated Distribution
Adams	19,870	237	\$30,890
Asotin	22,290	218	\$30,634
Benton	193,500	1,426	\$168,604
Chelan	76,830	747	\$83,404
Clallam	74,240	499	\$67,266
Clark	471,000	2,762	\$354,188
Columbia	4,100	59	\$14,100
Cowlitz	105,900	1,656	\$149,884
Douglas	41,420	189	\$36,020
Ferry	7,740	57	\$15,340
Franklin	90,330	781	\$90,537
Garfield	2,200	18	\$10,881
Grant	95,630	810	\$94,294
Grays Harbor	72,970	686	\$78,228
Island	82,790	338	\$60,618
Jefferson	31,360	214	\$33,784
King	2,153,700	6,564	\$1,216,561
Kitsap	264,300	1,973	\$228,562
Kittitas	44,730	340	\$46,495
Klickitat	21,660	150	\$26,238
Lewis	77,440	904	\$93,235
Lincoln	10,700	73	\$17,426
Mason	63,190	433	\$59,093
Okanogan	42,110	437	\$51,447
Pacific	21,250	297	\$35,076
Pend Oreille	13,370	62	\$17,753
Pierce	859,400	4,921	\$631,620
San Juan	16,510	49	\$18,133
Skagit	124,100	1,425	\$142,567
Skamania	11,690	84	\$18,470
Snohomish	789,400	3,345	\$509,022
Spokane	499,800	5,280	\$518,983
Stevens	44,510	400	\$50,082
Thurston	276,900	2,307	\$253,707
Wahkiakum	4,030	23	\$11,872
Walla Walla	61,400	441	\$58,912
Whatcom	216,300	1,718	\$194,999
Whitman	48,640	277	\$44,105
Yakima	253,000	2,534	\$258,646

* Washington Office of Financial Management, April 1 Official Population Estimates
<https://www.ofm.wa.gov/washington-data-research/population-demographics/population-estimates/april-1-official-population-estimates>

**Criminal Cases Filed in Superior Court 2017, Caseloads of the Courts of Washington
<http://www.courts.wa.gov/caseload/?fa=caseload.showReport&level=s&freq=a&tab=criminal&fileID=crmfilyr>