



Washington State
**Office of
Public
Defense**

Public Defense Attorney Recruitment and Retention: Ideas for Smaller and Rural Jurisdictions

Consistent with current national trends, many jurisdictions in Washington struggle to recruit and retain attorneys for public defense work. As many defenders transition into retirement, fewer law school graduates are electing to take their places. High-stress work, burgeoning caseloads, and high law school debt lead attorneys away from public defense and into other legal fields. With many employment and contract opportunities statewide, counties and cities must compete against one another to attract and retain attorneys for public defense work. This situation calls on local governments to think creatively and outside-the-box to ensure that well-qualified attorneys provide the constitutionally-guaranteed right to effective assistance of counsel. This document is intended to provide local government officials with a variety of ideas and suggestions to help incentivize public defense work in their communities.

Financial Incentives

- Pay defenders competitive rates.
- In rural areas collaborate with nearby jurisdictions to create a regional agency. [RCW 36.26.020](#)
- Ensure compensation is at parity with local prosecutors, and for contract defenders, include compensation to fully cover support staff, business costs, and the cost of private health insurance.
- Enter into multi-year contracts with built-in increases for each additional year.
- Provide additional contract compensation for time-intensive client advocacy such as motion practice, trials, and trial preparation
- Consider other forms of financial incentives such as:
 - Student loan repayment (many contract defenders do not qualify for federal loan forgiveness programs).
 - Credits for local business taxes.
 - Reduce delays in the payment of invoices.
 - Stipend for training and related travel costs.
 - Stipend for professional association costs.
 - Stipend for annual bar dues.

- Free access to JABS and Odyssey or the local court management system, including documents.
- Stipend for WestLaw or other legal research tool.

Support to the Defense Function

- Consider a regional or multi-jurisdictional approach to combine and centralize public defense administration roles. E.g. under [Chapter 36.26 RCW](#) (public defender district) or [Chapter 39.34 RCW](#) (interlocal cooperation act).
- Place the responsibility for public defense administration with a Washington State licensed attorney who is knowledgeable about the Rules of Professional Conduct and the [Washington Supreme Court Standards for Indigent Defense](#), and can help advocate for the contract defender's perspective within the county government.
- Contract management and supervision – ensure independence from the judge consistent with [Washington Court General Rule 42](#) and Standard 19 of the [WSBA Standards for Indigent Defense Services](#).
- High caseloads are a key factor leading to public defense burn-out. Reexamine local policies and practices in regards to charging, imposition of bail, plea bargaining, and other routine practices.
- Address ongoing calendaring conflicts when attorneys contract in nearby jurisdictions, enabling attorneys to combine smaller caseloads from multiple jurisdictions to build a sustainable, local practice.
- Identify strategies to reduce courtroom wait time for public defense counsel.
- Designate funds for investigation, experts, and social workers, eliminating the need for the defender to seek court approval each time. For example, create an investigation/expert services budget and authorize a presumptive amount per service or per case without requiring attorneys to seek pre-approval.
- Address the administrative support needs for staff, contract, or list-appointed counsel. Attorney satisfaction is highly correlated with availability of professional support staff.
- Compensate inexperienced defense attorneys to second-chair felony trials so they can work towards felony qualification levels.
- Compensate experienced defense attorneys to mentor new attorneys in their first trials and other complex litigation issues.
- Help coordinate and pay for interpreter services so contract attorneys can meet with non-English speaking clients outside of court.
- Address barriers and limitations to meeting with incarcerated clients (e.g. avoid strictly limited visitation hours, provide space for safe visitation and review of discovery, and invest in technology for confidential video remote communications).

Attracting Attorneys for Relocation

- Establish a local public defense agency with staff positions.
- Enter into multi-year contracts to incentivize attorneys to move to your community.
- Help connect spouses or domestic partners to local job-search resources.
- Help connect prospective defense attorneys to local housing resources.
- Provide free or subsidized local office space for relocated contractors.
- Promote the combination of contracts for other public defense services: multiple counties, District/Superior, municipal courts, or different case types.
- Provide contract defenders “business incubator services” or seek mentors among experienced local private attorneys.
- Reduce frequency of travel to attract attorneys who do not live locally. For example, consider virtual calendars, or consolidated in-person public defense calendars to reduce the number of court appearances per week. Explore remote video access for attorneys to confidentially communicate with incarcerated clients.
- Support or establish e-Filing at your local courts.
- Offer access to a copy machine at the court that the defense attorney may utilize.
- Partner with the local bar association to host a “meet and greet” type event to recruit attorneys to the local area.

Experience & Culture

- Get feedback from current and former defenders on their experiences, challenges they faced, and recommendations for recruiting/retaining future defenders.
- Promote a collegial atmosphere among defenders and prosecutors. Identify projects for collaboration.
- Establish an “onboarding” process for new defenders. Provide introductions, contact lists, local policies, and other resources so attorneys can navigate local practices and procedures, and connect with appropriate individuals. Connect new defenders with the leadership of the local bar association.
- Supply new defenders with information on local community resources (e.g. housing, job training, mental health counseling, transportation assistance, etc.) so that they can more effectively connect their clients.
- Coordinate periodic stakeholder check-ins with defenders, prosecutors, court admin, judges, court clerk, probation, etc. Consider these varying perspectives to address recent issues, changes to procedure, local resources, and future planning.
- Establish clear expectations in contracts for the smooth transfer of caseloads from one contract attorney to their replacement.

Attorney Pipeline

- Establish a Rule 9 program.
- Conduct outreach to nearby high schools (civics class, moot court, court field trips), community colleges, university undergraduate programs and law schools to generate interest in local public defense.
- Connect directly with students from your community who are currently attending law school to encourage them to return to your community for work.
- Explore legal internship possibilities. Students could even work remotely on legal research and writing.

More Information and Resources

- [Attorney Shortage Affecting Some Charging Decisions in Yakima County, Prosecuting Attorney Says \(2023\)](#)
- [Defendants Have a Right to Counsel, but Tri-Cities Struggles to Hire Enough Lawyers \(2022\)](#)
- [Lawyers Coping with Attorney Shortage in Yakima County \(2022\)](#)
- [Greening the Desert - Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities \(2020\)](#)
- [Rural Legal Deserts are a Critical Health Detriment \(2020\)](#)
- [‘Calling This a Crisis is Not an Understatement’: Public Defenders Face Challenges \(2021\)](#)
- [Wanted: Lawyers for Rural America \(2019\)](#)

For more information and no-cost consultation for local jurisdictions, contact us:

Washington State Office of Public Defense

Public Defense Improvement Program

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