

Washington State Judicial Branch

2024 Supplemental Budget

Recruitment Specialist Team

Agency: Office of Public Defense

Decision Package Code/Title: BC – Recruitment Specialist Team

Agency Recommendation Summary Text:

To address the shortage of public defense attorneys, particularly in rural counties, the Office of Public Defense (OPD) requests ongoing funding to coordinate statewide public defense recruitment efforts. A Recruitment Specialist Team will include 3.0 FTEs to assist county and city public defense systems by engaging with students at universities and law schools, providing grant funding and technical assistance to establish legal internship programs, and delivering trainings to counties and cities struggling with public defense recruitment/retention. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	0.00	3.00	3.00	3.00	3.00	3.00
Operating Expenditures						
Fund 001-1	\$0	\$642,225	\$642,225	\$627,225	\$627,225	\$1,254,450
Total Expenditures						
	\$0	\$642,225	\$642,225	\$627,225	\$627,225	\$1,254,450

Package Description:

Background and Current Situation:

State, county, and city public defense programs are experiencing unprecedented difficulties recruiting and retaining qualified public defense attorneys, who are critically necessary to ensure due process and a functioning legal system. Fewer law school graduates are seeking careers in public defense, and many experienced attorneys are retiring from the practice.

The shortage of attorneys is not limited to Washington State, and creative approaches are critical to find solutions that ensure constitutionally guaranteed public defense representation. Cities and counties of all sizes in Washington are facing this challenge, and most local jurisdictions lack the staff time and resources to actively recruit new and aspiring law school graduates to foster a pipeline into the public defense field.

Problem:

Cities and counties are struggling to recruit and retain adequate numbers of public defense attorneys to ensure due process for clients in their jurisdictions. Situations exist across the state where people are held in jail on criminal charges and public defense counsel simply are not available. Such shortages have become routine and widespread in other states, including Oregon, and some courts have been compelled to dismiss criminal charges due to a lack of public defenders. The current public defense shortage is not expected to resolve on its own, and requires a strategic, coordinated effort.

Proposed Solution:

OPD seeks funding to create a new Public Defense Recruitment Specialist Team to support public defense systems statewide to fill the gap in recruitment services. The Team, consisting of two FTE attorneys and one FTE program analyst,

will be dedicated to building a pipeline of law students into the public defense community statewide, administering grant funds to cities and counties to support internship and Rule 9 programs¹, and identifying strategies to retain attorneys in public defense jobs.

The Recruitment Specialist Team will collaborate with city and county public defense administrators, particularly in small and rural communities, which lack dedicated resources for ongoing recruitment strategies. Responsibilities will include:

- Guide city and county public defense administrators on establishing Rule 9 and other internship programs and administer grant funds to support compensation and housing stipends for the student interns;
- Promote public defense as a profession at law schools, universities, and high schools, and learn from students and faculty how to foster interest in public defense, including among persons of color who are underrepresented in the legal profession;
- Actively communicate with city and county public defense administrators to keep aware of their contracting and staff recruitment needs;
- Recruit and connect interested students and attorneys to public defense job and internship opportunities throughout the state;
- Train local attorneys, law students, and public defense administrators on opportunities for student loan forgiveness, including for contract workers, who can access federal public service loan forgiveness only under certain circumstances; and
- Identify and build on factors that attract law students and practitioners to public defense; identify and guard against factors that cause attorneys to leave the field.

Building a strong pipeline of public defenders will not happen quickly, and ultimately will be the result of continuous and collaborative efforts. A state-level focus on this issue will help stabilize retention in the profession in the years to come.

Fully describe and quantify expected impacts on state residents.

The Recruitment Specialist Team will bring new resources and expertise to small and rural jurisdictions to address immediate needs and plan ahead for improved future recruitment and retention. Smarter, more strategic recruitment will result in higher quality candidates for public defense positions and better representation for the clients they serve.

Explain what alternatives were explored by the agency and why this was the best option chosen.

OPD currently does not have the staffing or resources to dedicate to this purpose. Currently only the most sophisticated local public defense agencies are resourced for this type of active, ongoing recruitment. The far majority of jurisdictions, including rural ones, lack the resources and capacity for such ongoing work.

What are the consequences of not funding this request?

If this request is not funded, cities and counties will continue to struggle with recruiting public defense attorneys, and the shortage will lead to a lack of due process. In some instances, courts will be compelled to dismiss criminal charges if public defense counsel is not available.

Is this an expansion or alteration of a current program or service?

No

¹ As part of its regulation of the practice of law, the Washington Supreme Court adopted Admission and Practice Rule 9. Rule 9 authorizes supervised professional practice by qualified law students, enrolled law clerks, and recent graduates of approved law schools when they are licensed pursuant to this rule to engage in the limited practice of law as “Licensed Legal Interns.” A Rule 9 internship can be a valuable training opportunity for law students and an effective recruitment tool for employers interested in hiring new graduates.

**Decision Package expenditure, FTE and revenue assumptions:
Staffing Assumptions**

Job Title Classification	#s of FTE Round to Nearest Tenth				Workload Assumptions/Description
	FY 24	FY 25	FY 26	FY 27	
Managing Attorney	0.0	2.0	2.0	2.0	Two experienced public defense attorneys to focus on recruitment efforts and monitor a grant program. One located in Western WA, one in Eastern WA. Annual salary \$123,490 each. Annual benefits \$30,873 each totaling \$154,290 each * 2 = \$308,726
Program Analyst	0.0	1.0	1.0	1.0	Professional support staff for recruitment efforts including communication strategies, grant management, and tracking program outcomes. Annual Salary \$70,000. Annual Benefits \$18,500 totaling \$88,500

Additional Costs	Round to Nearest \$1,000				Description/Assumptions
	FY 24	FY 25	FY 26	FY 27	
Goods and Services	\$0	\$10,000	\$10,000	\$10,000	Costs for attending and hosting training events at universities and law schools; printed and digital materials and resources for aspiring public defenders at job fairs. Ongoing.
Travel	\$0	\$20,000	\$20,000	\$20,000	Travel costs for visits to local public defense offices, law schools, universities and other schools, and national training opportunities on recruitment strategies. Ongoing.
Equipment	\$0	\$15,000	\$0	\$0	Start-up costs for technology & equipment, \$5,000 per position. One-time.
Grants or Pass-Thru Funding	\$0	\$200,000	\$200,000	\$200,000	Reimbursement-based grants with city and county governments to promote the establishment of public defense Rule 9 and other internship programs, with emphasis on rural jurisdictions. Ongoing.

How does the package relate to the Judicial Branch principal policy objectives?

Fair and Effective Administration of Justice

Fair and effective administration of justice is contingent on the availability of a sufficient number of skilled public defense attorneys to provide constitutionally guaranteed representation.

Access to Necessary Representation

Without a sufficient number of public defense attorneys, defendants may be denied their constitutional right to counsel and timely resolution of charges against them. They may be held in jail without timely access to consult with legal counsel. They may have to delay their court cases while awaiting appointment of counsel.

Sufficient Staffing and Support

An insufficient number of local public defense attorneys are available to accommodate the demand in counties and cities statewide. The need is particularly great in misdemeanor cases (recruiting new attorneys) and high level, complex felonies (retaining experienced attorneys).

Are there impacts to other governmental entities?

This service would substantially assist county and city governments who are experiencing challenges in recruiting a sufficient number of public defense attorneys.

Stakeholder response:

OPD anticipates support for this proposal from local governments, courts, the Washington State Bar Association, law schools, universities, and high schools.

Are there legal or administrative mandates that require this package to be funded?

No

Does current law need to be changed to successfully implement this package?

No

Are there impacts to state facilities?

No

Are there other supporting materials that strengthen the case for this request?

Recent publications regarding shortages of public defense attorneys:

- [*Could a Public Defender Shortage Lead to Cases Being Dismissed?*](#) ; TVW's The Impact, September 6, 2023.
- [*"Very Troubling": Dozens in Whatcom County Waiting for a Public Defender to be Named*](#); Bellingham Herald, May 15, 2023.
- [*Tri-Cities Officials Race to Fix Lawyer Shortage before Criminal Cases are Dropped*](#); TriCity Herald, May 7, 2023.
- [*Attorney Shortage Affecting Some Charging Decisions in Yakima County, Prosecuting Attorney Says*](#); Yakima Herald-Republic, Feb 27, 2023.
- [*Attorney Shortage, Caseloads Leading to Shortage of Court-Appointed Attorneys*](#); Yakima Herald-Republic, Oct. 7, 2022.
- [*Class action lawsuit filed against state by criminal defendants over lack of public defenders*](#), The Oregonian, May 16, 2022.
- [*'I'm so confused': People without public defenders in Oregon speak out amid crisis*](#). Albany Democrat-Herald, September 4, 2022
- [*The Need for More Black Lawyers*](#), Mondaq (2021).

Are there information technology impacts?

No

Office of Public Defense
Policy Level – BC – Recruitment Specialist Team

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