

Washington State Judicial Branch

2026 Supplemental Budget

Restoring Funds for Blake Response & SPAR Program

Agency: Office of Public Defense

Decision Package Code/Title: D6 – Blake Response & SPAR Program

Agency Recommendation Summary Text:

The Office of Public Defense (OPD) requests funding to sustain legal services related to the Supreme Court’s *State v. Blake* decision. The requested funding will allow OPD to continue coordinating the statewide response to historical *Blake* cases, including resentencing, commuting, and vacating unconstitutional drug convictions. The requested funding also will help OPD support counties and cities to ensure effective public defense for recently authorized drug possession charges, as provided in RCW 2.70.200 and OPD’s Simple Possession and Advocacy Representation (SPAR) Program. (General Fund – State)

Fiscal Summary:

	FY 2026	FY 2027	Biennial	FY 2028	FY 2029	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$0	\$1,900,000	\$1,900,000	\$0	\$0	\$0
Total Expenditures						
	\$0	\$1,900,000	\$1,900,000	\$0	\$0	\$0

Package Description:

Background and Current Situation.

In 2021 the Washington Supreme Court ruled in *State v. Blake* that all convictions for felony drug possession were unconstitutional, dating back to 1971. Courts also ruled that all previous convictions for marijuana possession were unconstitutional.

Blake Response: Impacted people have the right to have unconstitutional convictions vacated (removed) from their records, and to be refunded any fees or fines paid in relation to the convictions. This process, however, is not automatic. Rather, each person’s record requires individualized review and formal court action in each local court where the person has a conviction. In addition, people with drug convictions in their criminal history who are currently serving criminal sentences may be entitled to a resentencing hearing and a reduced sentence. Resentencing hearings require individualized court proceedings, and impacted people have a right to counsel for resentencing. Since 2021 the Legislature has funded OPD to coordinate a multi-agency statewide *Blake* response and provide counsel for resentencing and vacatur.

SPAR Program: The *Blake* decision also resulted in the Legislature reclassifying simple drug possession and public use as a misdemeanor crime. The 2023 Legislature authorized and funded OPD to assist eligible counties and cities with grants and contracted public defense services for the newly created misdemeanor drug charges. See [RCW 2.70.200](#). In response, OPD established its Simple Possession Advocacy and Representation (SPAR) Program.

Funding History: For the 2023-2025 biennium, the *Blake* Response and SPAR programs were funded separately, at \$8.4 million and \$8 million, respectively. The Legislature appropriated funding for each program through the Judicial Stabilization Trust Account (JSTA), an account that allows OPD to efficiently utilize funds as needed across both fiscal years of the biennium.

The Problem

In the 2025-2027 biennium, the Legislature reduced funding for OPD's *Blake* Response and SPAR programs to a total of \$8.6 million *combined* for the biennium. This represents a 44 percent reduction for *Blake* and a 51 percent budget reduction for SPAR.

To implement budget cutbacks in *Blake* Response, OPD had to be mindful of the fact that even as a new fiscal year starts hundreds of clients are engaged in ongoing resentencing and vacatur actions that started in the prior biennium. These clients are relying on *Blake*-funded attorneys to complete their cases. To meet this carryover obligation to clients with active cases, OPD had to front-load more of its JSTA-based *Blake* funding to Fiscal Year 2026, leaving less to cover Fiscal Year 2027. While the legal system has made significant progress in addressing *Blake*, Fiscal Year 2027 will continue to present resentencing obligations as well as a substantial volume of vacatur cases.

To implement cutbacks in the SPAR Program, OPD cut client services with OPD-contracted attorneys, and reduced grants to eligible cities and counties by 80 percent. Cities and counties submitted requests for \$2.7 million in SPAR grants for Fiscal Year 2026, but OPD was able to disburse only \$883,000 in grant funding – leaving an unmet need of more than \$1.8 million. Only \$644,625 remains available for 2027 grants, even as drug arrests are escalating statewide. See Washington State Standard, July 29, 2025, [Violent crime drops in Washington as drug offenses skyrocket, latest statistics show](#)

Both *Blake* Response and SPAR programs are finding savings through OPD staffing cuts and attrition, as well as limits on staff travel and training. But without additional funding neither program will be able to adequately address direct client needs in Fiscal Year 2027.

Proposed Solution

This decision package proposes supplemental funding to maintain *Blake* Response grants for counties at the same level as Fiscal Year 2026. The decision package also proposes supplemental funding to allow the SPAR Program to assist with indigent defense services for eligible jurisdictions facing increased filings for simple possession and public use, on top of reduced caseloads for public defenders mandated by the Washington Supreme Court. All told, OPD is requesting an additional \$1.9 million for its *Blake* Response and SPAR programs.

- \$1,000,000 for *Blake* Response grants to counties and for OPD to contract directly with attorneys to continue resentencing and vacating unconstitutional convictions for people who have a right to relief under *State v. Blake*.
- \$900,000 for SPAR grants to cities and counties. This will not allow SPAR to fund Fiscal Year 2027 grants at the level SPAR reimbursed in Fiscal Year 2025 (approximately \$2.2 million), nor fully fund applicants at the amount requested in Fiscal Year 2026 (\$2.7 million), but it will provide a meaningful level of funding for more jurisdictions at a time when local public defense capacity is strained.

Description of the Programs

Blake Response Program:

Since 2021 the Legislature has appropriated funding to OPD to coordinate the statewide public defense work involved in responding to *Blake* cases in county courts. OPD's role includes:

- Administering grants to counties to fund their local *Blake* public defense work for resentencing and vacatur cases, which must return to court in the county where the conviction occurred. Many people have cases in multiple counties.
- Contracting directly with attorneys to provide *Blake* defense representation for resentencing in counties that have designated OPD to fulfill this role (as an alternative to receiving grants).
- Training, providing technical assistance, and meeting regularly with defense attorneys statewide to share knowledge, legal research, and representation resources to help ensure quality defense in *Blake* resentencing and vacatur cases throughout the state, as the relevant case law continues to evolve.
- Tracking and analyzing data to identify individuals in Department of Corrections (DOC) custody who are still in need of representation for resentencing hearings, and monitoring *Blake* resentencing progress statewide.
- Collaborating with civil legal aid and community-based organizations to provide *Blake* education and assistance to community and incarcerated populations.
- Collaborating with other state agencies and organizations to coordinate information, resources, and services, such as the Governor’s Office, the Administrative Office of the Courts (AOC), the Department of Corrections (DOC), Washington State Patrol (WSP), the Washington Association of Prosecuting Attorneys (WAPA), and the Washington Defender Association (WDA).
- Responding to daily calls from the public to help them navigate the multi-step process of vacating convictions and seeking reimbursement of eligible fees and fines.

Because of inconsistent records management in courts statewide, it is difficult to anticipate when *Blake* work will be completed. However, here is what OPD knows as of July 2025:

- Approximately 81,000 *Blake* vacate and dismissal orders from Superior Courts have been processed thus far by the Washington State Patrol.
- As of February 7, 2025, approximately one-fifth of known *Blake* cases have been vacated. (Washington courts plod through historic effort to vacate hundreds of thousands of illegal drug convictions, InvestigateWest, February 7, 2025, <https://www.investigatwest.org/investigatwest-reports/washington-courts-plod-through-historic-effort-to-vacate-hundreds-of-thousands-of-illegal-drug-convictions-17804752>)
- The 2025 Legislature eliminated *Blake* funding to civil legal aid organizations tasked with assisting individuals with filing vacates and motions related to *Blake*. (WA civil legal aid organizations mourn state funding cuts: ‘It’s a gut punch’, InvestigateWest, May 3, 2025, <https://www.investigatwest.org/investigatwest-reports/wa-civil-legal-aid-organizations-mourn-state-funding-cuts-its-a-gut-punch-17879168>)

SPAR Program

OPD is authorized to administer the SPAR Program by RCW 2.70.200, which states in part:

“The office of public defense may provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and representation services for indigent adults facing pending charges or charged with violations of RCW [69.50.4011](#)(1) (b) or (c), [69.50.4013](#), [69.50.4014](#), or [69.41.030](#)(2) (b) or (c), or charged with offenses involving allegations of possession or public use of a controlled substance, counterfeit substance, or legend drug, in courts of limited jurisdiction in counties with a population of 500,000 or less and cities with a population of 200,000 or less.”

As provided in RCW 2.70.200, a local jurisdiction under the population threshold may apply for SPAR funding on a reimbursement grant basis, or ask State OPD to contract directly with indigent defense providers for consultation and representation services in their jurisdiction.

- After an initial program development period, for Fiscal Year 2025 SPAR awarded funding to 32 city and county grant recipients, and reimbursed approximately \$2 million for recipients’ public defense costs related to

possession and public use charges. In Fiscal Year 2026 local governments applied for \$2.7 million in eligible reimbursements, but due to budget cuts OPD was able to fund only about 30% of the requests.

- Additionally, in Fiscal Year 2025 SPAR successfully implemented the option to contract directly with indigent defense providers at the request of four jurisdictions: the City of Vancouver, the City of Kennewick, the City of Richland, and the City of West Richland. While this pilot was successful, funding cuts prevent SPAR from direct contracting in the 2025-2027 biennium.
- In recognition that quality legal representation extends beyond attorney services, in Fiscal Year 2025 SPAR provided misdemeanor defenders access to contracted defense social workers. The benefits of social workers in public defense cases are well-documented, but few local jurisdictions in Washington have the capacity to implement and administer this important resource.

Fully describe and quantify expected impacts on state residents.

This decision package allows OPD to assist the thousands of people still awaiting legal remedies for drug convictions that the Washington Supreme Court found to be unconstitutional in *State v. Blake*. This decision package helps impacted people get resentenced, get *Blake* convictions commuted, get *Blake* convictions vacated, and get refunds that are owed to them.

In addition, this decision package ensures that eligible local jurisdictions will continue to receive SPAR Program assistance to offset public defense costs for new misdemeanor drug possession charges established by the Legislature.

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

OPD considered leaving other state agencies and the decentralized public defense providers in 39 individual counties to fend for themselves to address the ongoing needs presented by *State v. Blake*. OPD rejects this alternative because other state agencies, the courts, local governments, and the Legislature have asked OPD to take on a coordinating role to facilitate cross-system communication and services for *Blake*-related public defense. OPD also rejects the “fend-for-themselves” alternative because it perpetuates “justice by geography” and delays or denies the right to counsel for some clients who are owed relief under *Blake*.

Likewise, OPD chose this option because the 2023 Legislature in SB [5536](#) directed OPD to help cities and counties provide public defense for newly authorized misdemeanor drug possession charges, and to implement the grants and direct contracts administered by the SPAR program under RCW 2.70.200.

What are the consequences of not funding this request?

Not funding this request risks the following consequences:

- Without state funding and OPD’s statewide coordination of data and resources, *Blake* remedies will take longer to process because counties lack adequate local resources to fully support necessary *Blake* public defense work. For example, each county would have to request and review large DOC data sets to identify local cases eligible for relief. With state funding, OPD can continue performing this triage review for the counties. On their own, some counties might delay or overlook potential *Blake* remedial cases.
- Not funding this request will exacerbate the local inequities that contribute to “justice by geography.” This decision package keeps OPD assisting small and rural counties that lack sufficient resources to proactively review DOC data and identify people in need of representation for time-sensitive resentencing hearings.
- If this request is not funded, individuals with qualifying convictions in some courts will continue to be denied representation to determine eligibility and initiate vacatur actions.
- With regard to the SPAR Program, not funding this decision package will mean that OPD cannot meaningfully implement the policy directives of RCW 2.70.200. Not funding this decision package will further reduce targeted assistance to local jurisdictions to ensure effective public defense for newly authorized drug possession charges.

Defendants on the receiving end of those charges may experience a negative consequence in the form of overworked, underpaid public defenders.

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

No. This decision package continues existing services that are needed to correct historical *Blake* convictions and to ensure effective representation going forward for drug possession charges in misdemeanor courts. This decision package sustains funding that allows OPD to fulfill its statutory role under RCW 2.70.200.

Decision Package expenditure, FTE and revenue assumptions:

OPD's request for \$1,900,000 will fund additional client service contracts and grants.

Blake Response Program

With the funding, OPD will fund a combination of both pass-through grants to local governments and OPD direct contracts with attorneys. *Blake* budget provisos allow local governments the option to either accept pass-through funding from OPD, or to designate OPD to use those funds to directly contract with attorneys to provide *Blake* defense for resentencing and vacatur in their jurisdictions.

SPAR Program

With the funding, OPD will fund a combination of both reimbursement payments to cities/counties and OPD direct contracts with attorneys. In response to a local government request, RCW 2.70.200 authorizes OPD to provide reimbursement or contract directly for public defense services for adults facing certain drug possession charges in misdemeanor courts in counties with a population of 500,000 or less and cities with a population of 200,000 or less.

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

Fair and Effective Administration of Justice

This decision package allows OPD to continue coordinating the statewide *Blake* Response for persons who were harmed by 50 years of unconstitutional drug convictions. It also sustains funding to help eligible local jurisdictions meet the need for public defenders in newly charged drug possession and public use cases, as provided in RCW 2.70.200.

Accessibility

Current law requires *Blake*-impacted individuals to petition each court in which they have a conviction to request the relief owed to them. This decision package ensures active outreach efforts and assistance of defense counsel to help people with disabilities and limited English proficiency access their rightful *Blake* relief.

Access to Necessary Representation

People need access to legal representation in order to successfully pursue the *Blake* relief due to them. Filing motions, petitioning for resentencing hearings, vacating prior convictions, and applying for reimbursement of legal fines and fees are not simple or readily accessible procedures. The complexity of the process is exacerbated when a person has *Blake* convictions in multiple counties. Undoing convictions is complex technical work requiring experienced legal review and analysis, and this decision package provides the necessary legal representation to protect the rights of impacted people.

Likewise, by sustaining funding for grants and services under RCW 2.70.200, this decision package implements the constitutional guarantee of counsel and helps support meaningful access to counsel for indigent defendants in misdemeanor drug possession cases.

Are there impacts to other governmental entities?

Yes. A number of governmental partners rely on OPD as a centralized conduit of communications to facilitate *Blake*-related relief statewide. With Washington’s non-unified courts and decentralized approach to public defense, it is crucial to have a state-level public defense partner coordinate with the state Department of Corrections, the Washington State Patrol, the Administrative Office of the Courts, county clerks, and the Superior Court Judges Association, among others.

Local governments also are impacted by OPD’s ability to provide grant funding and direct contracts to help ensure the right to counsel in misdemeanor drug possession and public use cases, as authorized by RCW 2.70.200 and implemented through OPD’s SPAR Program.

Stakeholder response:

At its September 18, 2025 meeting, the OPD Advisory Committee voted to endorse this decision package. Other agencies, courts, local governments, and community advocates support OPD’s continued role in providing representation both for persons impacted by historical *Blake* convictions as well as for persons facing new drug possession and public use charges.

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

State v. Blake, 197 Wn.2d.170 (2021), holds that Washington’s historical drug possession law violated due process. Any convictions under the statute are void, retroactive to the law’s inception in 1971. To remedy this injustice, impacted persons require public defense services for resentencing and vacating convictions.

RCW 2.70.200 directs OPD to help eligible counties and cities provide public defense services for newly charged misdemeanor drug possession and public use cases, subject to amounts appropriated for this purpose.

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

No. Substantive law changes are not required.

Are there impacts to state facilities?

No.

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

- Investigate West, February 7, 2025: [Washington courts plod through historic effort to vacate hundreds of thousands of illegal drug convictions](#)
- Washington State Standard, July 29, 2025: [Violent crime drops in Washington as drug offenses skyrocket, latest statistics show](#)
- Full Court Press, December 2024: [Full Court Press, Blake Refund Bureau, Dec 2024](#)

Are there information technology impacts?

No.

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