

# Washington State Judicial Branch

## 2026 Supplemental Budget

### Adult and Juvenile Resentencing

**Agency:** Office of Public Defense

**Decision Package Code/Title:** D7 – Adult and Juvenile Resentencing

#### Agency Recommendation Summary Text:

OPD requests funding to provide counsel for persons who are eligible for criminal resentencing pursuant to a July 2025 decision of the Washington Supreme Court. *State v. Lewis*, 571 P.3d 1245 (2025) qualifies people for resentencing if their criminal history includes convictions from foreign jurisdictions. This request covers costs for 25 resentencing cases, including contract attorney services, travel, expert fees for mitigation, and release planning. RCW 2.70.020(3) authorizes OPD to provide counsel when the Legislature or appellate case law creates new bases to challenge a conviction or sentence. (General Fund – State)

#### Fiscal Summary:

|                               | FY 2026 | FY 2027   | Biennial  | FY 2028   | FY 2029   | Biennial  |
|-------------------------------|---------|-----------|-----------|-----------|-----------|-----------|
| <b>Staffing</b>               |         |           |           |           |           |           |
| FTEs                          | 0.00    | 0.00      | 0.00      | 0.00      | 0.00      | 0.00      |
| <b>Operating Expenditures</b> |         |           |           |           |           |           |
| Fund 001-1                    | \$0     | \$100,000 | \$100,000 | \$100,000 | \$100,000 | \$200,000 |
| <b>Total Expenditures</b>     |         |           |           |           |           |           |
|                               | \$0     | \$100,000 | \$100,000 | \$100,000 | \$100,000 | \$200,000 |

#### Package Description:

OPD requests funding to provide counsel for persons who are eligible for criminal resentencing pursuant to a July 2025 decision of the Washington Supreme Court. *State v. Lewis*, 571 P.3d 1245 (2025) qualifies people for resentencing if their current sentence was based on an offender score that included convictions from foreign jurisdictions. This decision package covers costs for 25 resentencing cases. It is unknown how many of the 15,141 currently incarcerated individuals are impacted by *State v. Lewis*, though OPD anticipates that at least 25 persons will be eligible for resentencing under that decision. The requested funding will cover all representation costs, including contract attorney services, travel, expert fees for mitigation, and release planning.

RCW 2.70.020(3) authorizes OPD to provide counsel when the Legislature or appellate case law creates new bases to challenge a conviction or sentence. OPD currently provides counsel and statewide coordination for resentencing cases under *State v. Blake*, 197 Wn.2d.170 (2021). To implement this decision package, OPD will leverage the professional networks, statewide coordination, and legal expertise initially developed through the agency's *Blake* resentencing work.

#### Fully describe and quantify expected impacts on state residents.

This decision package ensures timely legal assistance for approximately 25 Washington residents eligible for resentencing under *State v. Lewis*. In particular, this decision package will positively impact persons of color, who are disproportionately sentenced to long terms of incarceration. The "Race and Washington's Criminal Justice System: 2022

Recommendations to Criminal Justice Stakeholders in Washington,” found that in fiscal years 2018 through 2020 there were “clear disproportionalities for Black persons and for Indigenous persons.”<sup>1</sup>

This decision package also benefits county governments because it reduces the number of resentencing cases in local public defender workloads.

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

OPD considered leaving other impacted state agencies and the decentralized public defense providers in 39 individual counties to fend for themselves in providing resentencing under *State v. Lewis*. OPD rejects the fend-for-themselves alternative because it perpetuates “justice by geography,” which will delay or hinder the right to counsel for some clients who are eligible for resentencing relief.

Likewise, OPD chose this option because the Legislature in RCW 2.70.020(3) expressed its intent for OPD to assist impacted residents when new paths for resentencings are created through case law or legislative changes.

**What are the consequences of not funding this request?**

- Counties lack the funding and coordinated resources to fully support resentencing public defense work. Without state-level funding and OPD coordination of data and resources, these cases will take longer to process. Some counties might de-prioritize or overlook potential resentencing cases.
- Many counties struggle to recruit and retain a sufficient number of public defense attorneys for current criminal casework. Not funding this request could increase the burden on counties by requiring local defenders to also provide representation for resentencing cases under *State v. Lewis*.
- Not funding this request will worsen the local inequities that contribute to “justice by geography.” This decision-package allows OPD to assist 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.
- Not funding this decision package will mean that OPD cannot meaningfully implement the directive of RCW 2.70.020(3).

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

No. This decision package requests funding to provide counsel for resentencing in response to new case law (*State v. Lewis*), and pursuant to RCW 2.70.020(3).

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

This decision package includes no agency FTEs.

OPD intends to spend \$100,000 exclusively for client services, including attorney contracts, contractor travel, expert fees for mitigation, and release planning.

OPD will add funding to existing attorney contracts, leveraging the experience of attorneys already under contract to do *Blake* resentencing work. These attorneys have developed significant expertise in resentencing and many have capacity to accept additional cases. This request will provide client services in an estimated 25 cases eligible for resentencing under *State v. Lewis*.

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<sup>1</sup> Task Force 2.0, [Race and Washington’s Criminal Justice System: 2021 Report to the Washington Supreme Court](#), pg. 17-18 (2021).

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

### **Fair and Effective Administration of Justice**

This decision package ensures counsel for persons eligible for resentencing under *State v. Lewis*.

### **Accessibility**

Current law requires individuals seeking resentencing pursuant to a change in law to petition the court to request the relief due to them. This decision package ensures active outreach efforts across the state and assistance of defense counsel to help people with communication disabilities, cognitive impairments, and limited English proficiency access their rightful resentencing relief.

### **Access to Necessary Representation**

Individuals require legal representation when seeking resentencing relief. Filing motions and seeking resentencing hearings are not simple or readily accessible procedures. Resentencing 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.

## **Are there impacts to other governmental entities?**

This decision package could result in cost savings to the Department of Corrections (DOC) if resentencing reduces the time an individual stays in a DOC facility. Current costs are close to \$300 per day to incarcerate an individual in general population. This cost rises when individuals are disabled, elderly, and/or require ongoing medical care.

In addition, since the *Blake* decision in 2021, state and local partners have come to rely on OPD to be a centralized conduit of communications about public defense resentencing work. With Washington's non-unified courts and decentralized approach to public defense, it is crucial to have a state-level public defense partner join discussions and coordinate with DOC, AOC, WSP, county clerks, the Superior Court Judges Association, and other impacted organizations and state agencies.

### **Stakeholder response:**

At its September 18, 2025 meeting, the OPD Advisory Committee voted to approve this decision package. It is anticipated that community groups advocating for justice and equity will support OPD's continued role in bringing representation to individuals impacted by resentencing laws, including *State v. Lewis*. In addition, courts, local governments, and other state agencies likely will support this decision package.

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

RCW 2.70.030(3) directs OPD to provide the services included in this decision package subject to amounts appropriated for this purpose.

In addition, the following summarizes recent resentencing law from the Washington Supreme Court and the Washington State Legislature.

Most recently, the Supreme Court held in *State v. Lewis*, 571 P.3d 1245 (2025), that convictions from foreign jurisdictions cannot be counted as criminal history points when sentencing an individual. In April 2025, the Washington Legislature enacted a resentencing bill applicable to youth convicted of "prison rioting" at a juvenile rehabilitation facility. During the last decade, policymakers and courts have created numerous new resentencing pathways, including:

- HB 1324: In 2023, the Legislature amended the SRA to bar the inclusion of most prior juvenile adjudication(s) for purposes of scoring an adult conviction.

- *State v. Blake*: In February 2021, the WA Supreme Court found that any simple possession of a controlled substance conviction(s) as far back as 1977 is deemed unconstitutional.
- Senate Bill 5164: In 2021, the Legislature removed Robbery in the Second Degree from the SRA list of persistent offenses, making it retroactive. Mandates resentencing for all individuals currently serving life without parole based on a Robbery 2 conviction.
- Senate Bill 6164: In 2021, the Legislature authorized county prosecutors to reduce long adult sentences that no longer serve the interests of justice.
- *State v. Monschke* and *State v. Domingo-Ali*: requires resentencing individuals whose index offense was committed between the ages of 18 and 20 years old, and individuals under 18 given a sentence of life without parole.

**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?**

- [State v. Lewis](#), 571 P.3d 1245 (2025)
- [RCW 2.70.020](#)(3)

**Are there information technology impacts?**

No

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