

# Washington State Judicial Branch

## 2025-2027 Biennial Budget

### Advanced Criminal Defense Training Academy – SB 5780

**Agency:** Office of Public Defense

**Decision Package Code/Title:** 1J – Criminal Defense Training Academy

**Agency Recommendation Summary Text:**

The Office of Public Defense (OPD) requests funding to provide advanced training to felony-level attorneys beginning in Fiscal Year 2026, as directed by SB 5780. The 2024 Legislature appropriated funding sufficient to implement the bill's requirement to train new practitioners, but further appropriation is needed to fully implement the bill's additional requirement to also serve experienced attorneys seeking advanced training.

**Fiscal Summary:** Funding is requested implement advanced criminal defense training, as provided in SB 5780.

|                               | FY 2026   | FY 2027   | Biennial    | FY 2028   | FY 2029   | Biennial    |
|-------------------------------|-----------|-----------|-------------|-----------|-----------|-------------|
| <b>Staffing</b>               |           |           |             |           |           |             |
| FTEs                          | 1.50      | 1.50      | 1.50        | 1.50      | 1.50      | 1.50        |
| <b>Operating Expenditures</b> |           |           |             |           |           |             |
| Fund 16A-1                    | \$546,000 | \$524,000 | \$1,070,000 | \$524,000 | \$524,000 | \$1,048,000 |
| <b>Total Expenditures</b>     |           |           |             |           |           |             |
|                               | \$546,000 | \$524,000 | \$1,070,000 | \$524,000 | \$524,000 | \$1,048,000 |

**Package Description:**

**Background and current situation:**

The Office of Public Defense (OPD) created a Criminal Defense Training Academy to help new, inexperienced public defense attorneys develop the necessary skills to represent a client competently.<sup>1</sup> The week-long program focuses on client communication, racial bias and discrimination, trial skills, and sentencing. Attorneys who attend the Academy typically do not receive other intensive training and come from rural or underserved communities. Each time OPD has offered this program, it has reached maximum capacity and turned away eligible applicants. The Washington State Bar Association (WSBA) incorporated the Criminal Defense Training Academy into qualifications an attorney can demonstrate in order to become certified to represent persons charged with certain crimes.<sup>2</sup>

In [SB 5780](#), the 2024 Legislature endorsed and expanded OPD's Criminal Defense Training Academy to help improve attorney recruitment and retention in rural and underserved communities. The bill requires OPD to expand Academy capacity for new public defense practitioners starting in Fiscal Year 2025, and OPD is doubling the number of participants this year. The bill also directs OPD to deliver advanced training for attorneys handling more serious cases beginning in Fiscal year 2026.

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<sup>1</sup> Criminal Defense Training Academy (<https://opd.wa.gov/attorneys/continuing-legal-education/criminal-defense-training-academy>).

<sup>2</sup>WSBA Standards for Indigent Defense Services (Revised March 8, 2024) ([https://www.wsba.org/docs/default-source/legal-community/committees/council-on-public-defense/wsba-indigent-defense-standards-as-approved-by-bog-2024.03.08.pdf?sfvrsn=3c831ff1\\_5](https://www.wsba.org/docs/default-source/legal-community/committees/council-on-public-defense/wsba-indigent-defense-standards-as-approved-by-bog-2024.03.08.pdf?sfvrsn=3c831ff1_5))

Washington faces a severe public defender shortage that impacts justice in many ways.<sup>3</sup> Those working in public defense are experiencing high caseloads, which can lead to ineffective representation and delayed justice.<sup>4</sup> Further, low pay, high stress, and a lack of resources make it challenging to attract and retain qualified attorneys in public defense.<sup>5</sup> This raises concerns of delayed trials and the likelihood that the rights of the accused will be violated.<sup>6</sup> The problems are especially acute in rural and underserved communities.<sup>7</sup>

**Problem:**

The 2024 Legislature appropriated funding to implement SB 5780's requirement to expand Academy capacity to new practitioners in Fiscal Year 2025, but the amount is not sufficient to fully implement the bill's additional requirement to also serve experienced attorneys seeking advanced training starting in Fiscal Year 2026.

Creating and maintaining the Advanced Criminal Defense Training Academy will be a dynamic process that requires variable training to meet the needs of a developing legal community. Additional staffing is necessary because of the time required to ensure the curriculum meets the competency requirements to handle felony cases. This requires continually researching changes in the law, observing current courtroom practice, understanding sentence trends, and building a training structure that reflects how public defense practice can be improved.

**Proposed solution:**

This decision package proposes additional funding and 1.5 FTEs to implement SB 5780's directive to provide advanced training for experienced attorneys. OPD's Advanced Criminal Defense Training Academy will help experienced attorneys develop the criminal defense skills necessary to provide competent representation to clients facing serious felony charges. The training also will help attorneys comply with Indigent Defense Standards and will allow them to complete their continuing legal education requirements. The training will be offered twice each year and will be directed at rural and underserved counties.

The multi-faceted solution to the ongoing public defender shortage includes addressing caseload issues, low pay, high stress, and inadequate training. And while the Supreme Court is currently considering changes to caseload standards,<sup>8</sup> one of the clearest ways to improve public defense delivery is to ensure public defenders have adequate resources, including training. Training public defenders is a cost-effective way to increase recruitment and retention. For experienced lawyers who have not regularly practiced criminal law, attending OPD's Advanced Criminal Defense Training

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<sup>3</sup> *Public Defenders Are on The Front Lines of Washington's Worst Crises, And There Aren't Enough*, Scott Greenstone, KNKX Public Radio (Jan. 17, 2024) (<https://www.knkx.org/law/2024-01-17/public-defenders-are-on-the-front-lines-of-washingtons-worst-crises-and-there-arent-enough>)

<sup>4</sup> *'Rights Are Being Violated': WA Public Defender Shortage Leads To Alleged Gap In Representation*, Brittany Toolis, KIRO 7 News (Jan. 25, 2024) (<https://www.kiro7.com/news/local/rights-are-being-violated-wa-public-defender-shortage-leads-alleged-gap-representation/7REDLOCZCBDAZKLQPKVMCICLWI/>).

<sup>5</sup> *WA Supreme Court Considers Cutting Public Defender Caseloads*, Jerry Cornfield, Washington State Standard (July 21, 2024) (<https://myedmondsnews.com/2024/07/wa-supreme-court-considers-cutting-public-defender-caseloads/>).

<sup>6</sup> *Amid WA Public Defender Shortage, It's 'Justice By Geography'*, National Criminal Justice Association (June 3, 2024) (<https://www.ncja.org/crimeandjusticeneeds/amid-wa-public-defender-shortage-it-s-justice-by-geography#:~:text=Too%20few%20public%20defenders%20and,officials%20agree%20on%20the%20problem>).

<sup>7</sup> *Supreme Court Examines Right to Counsel Involving Non-WA-Licensed Defender*, Mark Fucile, NW Sidebar (Feb. 21, 2023) (<https://nwsidebar.wsba.org/2023/02/21/supreme-court-examines-right-to-counsel-involving-criminal-defense-lawyer-not-licensed-in-washington/>)

<sup>8</sup> *Proposed Changes to Washington Supreme Court Public Defense Standards* (July 17, 2024) (<https://www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=50456#:~:text=The%20proposed%20new%20standards%20would,some%20qualification%20requirements%20for%20public>)

Academy provides a path to transition into the field. For those already in the field, advanced training will help them recommit to a career in public defense.

The benefits of advanced training for public defenders include the following:

- **Improved Case Outcomes:** Enhanced legal knowledge and sharper skills lead to better client representation and outcomes.
- **Increased Efficiency:** Training can equip defenders with time-saving strategies and new tools, allowing them to handle their caseloads more effectively.
- **Enhanced Ethical Practice:** Training helps defenders stay up-to-date on legal ethics and best practices, reducing the risk of malpractice and ineffective assistance.
- **Improved Morale and Retention:** Investing in training demonstrates a commitment to an attorney's professional development, which can improve job satisfaction and reduce turnover.
- **Strengthened Advocacy:** Training helps defenders develop strong advocacy skills essential for competent representation.
- **Service to Counties:** Providing advanced training serves counties, as attendance helps fulfill an attorney's continuing education requirements.<sup>9</sup> Each year, attorneys who work in criminal defense must attend at least seven hours of criminal defense-related training. Over three years, they must complete 45 hours in order to remain licensed to practice law. OPD's Advanced Criminal Defense Training Academy will help lawyers fulfill this obligation at no cost to county employers.

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

Training public defenders in underserved communities profoundly impacts the quality of defense services delivered, affecting both individual rights and overall societal well-being. While only a part of an adequate public defense structure, ongoing training helps protect individual rights, avoids wrongful convictions and mistrials, and safeguards due process and equal protection.

Training attorneys also reduces state costs by avoiding costly appeals and wrongful convictions.<sup>10</sup> In addition, a well-trained public defender can better connect their client with services, thus avoiding incarceration costs.<sup>11</sup>

Training public defenders improves public perception of the legal system.<sup>12</sup> When public defenders know the law and how to apply it, they create confidence in the legal system, supporting the rule of law. When defenders cannot try their cases effectively, the public perceives the system as unfair and unequal.

Further, because unlawful convictions can require retrying cases, failing to provide adequate training for public defenders can cause significant harm to victims and their families. Knowing when to try a case or how to access services

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<sup>9</sup> Mandatory Continuing Legal Education (Updated June 7, 2024) (<https://www.wsba.org/for-legal-professionals/mcle>)

<sup>10</sup> *To Prevent Wrongful Convictions, Invest In Public Defense Solutions*, Emily Galvin-Almanza, The Hill (Dec. 18, 2021) (<https://thehill.com/changing-america/opinion/586305-to-prevent-wrongful-convictions-invest-in-public-defense-solutions/>)

<sup>11</sup> *Rethinking Jails, Reframing Public Defense: Making the Case for the System-Wide Benefits of Effective Defenders*, National Legal Aid and Defender Association (2016) (<https://www.nlada.org/sites/default/files/NLADA-SJC-reframing-public-defense-toolkit.pdf>)

<sup>12</sup> *What Policymakers Need to Know to Improve Public Defense Systems*, Tony Fabelo, Office of Justice Programs, U.S. Department of Justice (Dec. 2001) (<https://www.ojp.gov/pdffiles1/bja/190725.pdf>)

like those provided in restorative justice means that victims do not need to live through a trial more than once.<sup>13</sup> Funding training can reduce the traumatizing impact of trials.

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

This decision package is the best option to respond to SB 5780’s directive for OPD to provide advanced training. As outlined above, training attorneys as they progress into more serious cases is a cost-effective way to increase competence, improve recruitment and retention, and better serve people impacted by the criminal legal system.

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

Not funding this decision package will significantly limit OPD’s ability to provide comprehensive advanced training as envisioned by SB 5780.

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

SB 5780 directs OPD to create an Advanced Criminal Defense Training Academy. This decision package implements the Legislature’s intent.

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

**Staffing Assumptions**

| Job Title<br>Classification | #s of FTE<br>Round to Nearest Tenth |       |       |       | Workload Assumptions/Description                                |
|-----------------------------|-------------------------------------|-------|-------|-------|-----------------------------------------------------------------|
|                             | FY 26                               | FY 27 | FY 28 | FY 29 |                                                                 |
| Training Supervisor         | 1.0                                 | 1.0   | 1.0   | 1.0   | Oversees training program and implements CDTA and advanced CDTA |
| Administrative Assistant    | .5                                  | .5    | .5    | .5    | Administers the CDTA programs                                   |

**Use Standard Costs?**

No.

| If No, Explain<br>Additional Costs                                                     | Round to Nearest \$1,000 |           |           |           | Description/Assumptions                                      |
|----------------------------------------------------------------------------------------|--------------------------|-----------|-----------|-----------|--------------------------------------------------------------|
|                                                                                        | FY 26                    | FY 27     | FY 28     | FY 29     |                                                              |
| Two training events - speaker fees, materials, venue, travel cost                      | \$252,000                | \$252,000 | \$252,000 | \$252,000 | 2 statewide trainings each fiscal year for public defenders  |
| One training event for faculty training – speaker fees, materials, venue, travel costs | \$41,000                 | \$41,000  | \$41,000  | \$41,000  | 1 statewide training a year for faculty – train-the-trainers |

<sup>13</sup> Strengthening restorative practices in programs for prisoners, victims and families of prisoners, Restorative Justice Exchange (last accessed July 30, 2024) (<https://restorativejustice.org/>).

Office of Public Defense  
Policy Level – 1J – Criminal Defense Training Academy

|                                          |          |          |          |          |                                                     |
|------------------------------------------|----------|----------|----------|----------|-----------------------------------------------------|
| One time startup costs                   | \$22,000 |          |          |          | Equipment, supplies, start-up for new OPD employees |
| OPD staff travel (for 3 training events) | \$15,000 | \$15,000 | \$15,000 | \$15,000 | OPD staff travel for 3 trainings a year             |

| 25-27 Biennium - CDTA Training Staff & Event Cost Summary |                     |                     |                       |                     |                     |                       |
|-----------------------------------------------------------|---------------------|---------------------|-----------------------|---------------------|---------------------|-----------------------|
|                                                           |                     |                     |                       |                     | 0.25                |                       |
| #4 Additional Costs - OPD Staff                           | Range               | Salary              | FTE                   |                     | Bens                | Total                 |
| Atty Trainer                                              | 74M                 | \$129,000.00        | 1                     | \$129,000.00        | \$33,000.00         | \$162,000.00          |
| Program Asst                                              | 50M                 | \$71,000.00         | 0.5                   | \$36,000.00         | \$18,000.00         | \$54,000.00           |
| <b>TOTAL</b>                                              |                     |                     |                       | <b>\$165,000.00</b> | <b>\$51,000.00</b>  | <b>\$216,000.00</b>   |
| Staff                                                     | FY26                | FY27                | 25-27 Bi              | FY28                | FY29                | 27-29 Bi              |
| A*/B                                                      | \$165,000.00        | \$165,000.00        | \$330,000.00          | \$165,000.00        | \$165,000.00        | \$330,000.00          |
| B                                                         | \$51,000.00         | \$51,000.00         | \$102,000.00          | \$51,000.00         | \$51,000.00         | \$102,000.00          |
| Staff Training Events & Travel                            | \$15,000.00         | \$15,000.00         | \$30,000.00           | \$15,000.00         | \$15,000.00         | \$30,000.00           |
| One-time start up costs                                   | \$22,000.00         | \$0.00              | \$22,000.00           | \$0.00              | \$0.00              | \$0.00                |
| <b>TOTAL</b>                                              | <b>\$253,000.00</b> | <b>\$231,000.00</b> | <b>\$484,000.00</b>   | <b>\$231,000.00</b> | <b>\$231,000.00</b> | <b>\$462,000.00</b>   |
| Event                                                     | FY26                | FY27                | 25-27 Bi              | FY28                | FY29                | 27-29 Bi              |
| Training #1                                               | \$126,000.00        | \$126,000.00        | \$252,000.00          | \$126,000.00        | \$126,000.00        | \$252,000.00          |
| Training #2                                               | \$126,000.00        | \$126,000.00        | \$252,000.00          | \$126,000.00        | \$126,000.00        | \$252,000.00          |
| Training #3                                               | \$41,000.00         | \$41,000.00         | \$82,000.00           | \$41,000.00         | \$41,000.00         | \$82,000.00           |
| <b>TOTAL</b>                                              | <b>\$293,000.00</b> | <b>\$293,000.00</b> | <b>\$586,000.00</b>   | <b>\$293,000.00</b> | <b>\$293,000.00</b> | <b>\$586,000.00</b>   |
| <b>TOTAL</b>                                              | <b>\$546,000.00</b> | <b>\$524,000.00</b> | <b>\$1,070,000.00</b> | <b>\$524,000.00</b> | <b>\$524,000.00</b> | <b>\$1,048,000.00</b> |

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

**Fair and Effective Administration of Justice**

This program includes an examination of the legal system's impact on persons of color and those unable to afford an attorney. Training lawyers to confront implicit and explicit bias in the courtroom reduces the effects of discrimination, creating a more fair and effective legal system.<sup>14</sup>

**Accessibility**

This program includes training on how public defenders can improve their work with persons who have mental health issues. The program also provides training for understanding accessibility issues and how to incorporate them into a public defender's practice.

**Access to Necessary Representation**

This training focuses on providing the necessary skills to provide effective representation in pre-trial client interactions, negotiations with the government, trial, and sentencing. All of the skills addressed during the Criminal Defense Academy are essential to providing competent representation and avoiding ineffective assistance of counsel.

<sup>14</sup> *How Defense Attorneys Can Eliminate Racial Disparities in Criminal Justice*, Nazgol Ghandnoosh, *The Champion*, National Association of Criminal Defense Lawyers (June 2018) (<https://www.nacdl.org/Article/June2018-HowDefenseAttorneysCanEliminat>)

**Commitment to Effective Court Management**

Competent defense counsel is essential to effective court management.

**Sufficient Staffing and Support**

This decision package provides for a 1 FTE OPD staff attorney position and a .5 FTE support position, both necessary to effectively support the advanced criminal defense training referenced in SB 5780.

**How does the package impact equity in the state?**

**Address any target populations or communities that will benefit from this proposal.**

The primary beneficiaries of this decision package are persons represented by public defenders, especially in felony-level cases. This program focuses on public defenders working in underserved and rural communities, where recruitment and retention are even more acute. Thus, while all communities benefit from this program, its greatest impact is felt where support is needed the most.

**Describe how the agency conducted community outreach and engagement.**

OPD offers the Criminal Defense Training Academy each year and solicits feedback from attendees. The two most common requests are to provide more frequent training and to provide additional training for attorneys handling more serious cases. OPD receives similar requests from public defense administrators.

**Consider which target populations or communities would be disproportionately impacted by this proposal.**

**Explain why and how these equity impacts will be mitigated.**

This proposal does not disproportionally impact any communities.

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

No.

**Stakeholder response:**

At its September 12, 2024 meeting, the OPD Advisory Committee approved this decision package. Defenders and administrators testified strongly in favor of SB 5780. They support advanced training, as noted above in the response regarding community outreach.

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

Yes. SB 5780 directs the Office of Public Defense to provide advanced training for defenders in addition to its Criminal Defense Training Academy for new practitioners.

**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?**

Other states provide continuing training for public defense attorneys as they become more experienced. Examples of advanced training academies include those in Colorado,<sup>15</sup> Missouri,<sup>16</sup> Wisconsin,<sup>17</sup> Kentucky,<sup>18</sup> and Michigan.<sup>19</sup> These states recognize training as one of the most cost-effective ways to provide competent representation, increase recruitment and retention, and support the rule of law.

**Are there information technology impacts?**

No.

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<sup>15</sup> <https://www.coloradodefenders.us/join-our-team/defender-training/attorney-training/advanced-subject-matter-class/>

<sup>16</sup> <https://publicdefender.mo.gov/employment/working-for-mspd/training/>

<sup>17</sup> <https://www.training.wisped.gov/>

<sup>18</sup> <https://dpa.ky.gov/kentucky-department-of-public-advocacy/about-dpa/offices-and-branches/education/>

<sup>19</sup> <https://www.sado.org/Calendar/>