

LEGISLATIVE CALL TO ACTION

MISSION:

Develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.

STEP ONE:

Recognizing that adequate funding of the trial courts will require a long-term approach, the state's Board for Judicial Administration developed the following recommendations for immediate change during the 2005 legislative session to three crucial areas of trial court operations, indigent defense and civil legal aid.

TRIAL COURT FUNDING

- The state should assume 50 percent of the cost of jury fees and mileage costs. Also, the Jury Commission recommendation of \$10 for the first day and higher reimbursement for subsequent days of jury duty should be adopted.
- The state should assume 50 percent of the cost of district court judges' salaries.
- The state should assume 50 percent of the cost of elected municipal court judges' salaries.
- A "Trial Court Improvement Account" should be established in each jurisdiction with 50 percent of the savings realized from the state assuming half of judicial salaries and jury fees.
- Superior court filing fees should be increased by \$90, district court filing fees should be increased by \$24, and miscellaneous fees should be increased.

INDIGENT DEFENSE

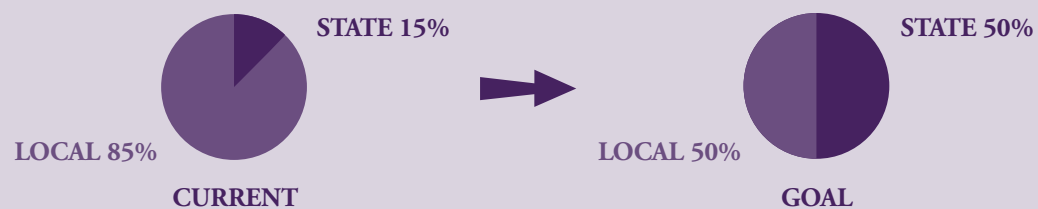
- The state should pay 100 percent of the cost of representing parents in dependency actions to be phased in over the biennium.
- An extended training program should be created for new public defense attorneys.
- New staff positions should be created within the Office of Public Defense to provide technical support to jurisdictions regarding public defense contracts and services.
- Senior lawyer positions should be created to provide expertise and assistance to public defenders.
- The state should provide direct fiscal support to local jurisdictions for increased indigent defense services, and to stave off impending service cuts.

CIVIL LEGAL AID

- The state should make a significant and meaningful increase in civil legal aid funding and shift the administration and oversight of civil legal aid funding to the judicial branch in an Office of Civil Legal Aid.
- The capacity of the Northwest Justice Project (NJP) to respond to the critical legal needs of seniors, domestic violence victims, developmentally disabled and other low-income people should be expanded. NJP's CLEAR hotline should also be expanded.
- The Alliance for Equal Justice should leverage additional volunteer attorney contributions.

ULTIMATE GOAL:

The state should share more equitably in funding trial courts and indigent defense – by contributing roughly 50 percent – to stabilize court funding and provide equality across the state.



SELECTED PRINCIPLES FOR TRIAL COURT FUNDING

“Washington court funding is not adequate, is not stable, and is seriously uneven across the state from jurisdiction to jurisdiction. It substantially interferes with our trial courts' ability to perform their core functions at all levels.”

–Washington Supreme Court Chief Justice Gerry Alexander

- Trial courts are critical to maintaining the rule of law in a free society; they are essential to the protection of the rights and enforcement of obligations for all.
- Trial courts must have adequate, stable, and long-term funding to meet their legal obligations.

- Trial court funding must be adequate to provide for the administration of justice equally across the state.
- Legislative bodies (whether municipal, county, or state) have the responsibility to adequately fund the trial courts.
- The state has an interest in the effective operation of trial courts and the adequacy of trial court funding. Therefore, the state should contribute equitably to achieve a better balance of funding between local and state government.
- Trial courts are not self-funding. The imposition of fines, penalties, forfeitures and assessments by trial courts are for the purpose of punishment and deterrence, and must not be linked to the funding of trial courts.

In the short term, the Task Force proposed changes to Title 3 that support a collaborative regional approach to provision of district and municipal court services. These include expanding the role and membership of the county districting committee and updating statutory provisions authorizing municipalities and counties to provide joint court services by interlocal agreement. The Task Force also concluded that all judges in courts of limited jurisdiction should be elected to promote accountability and the independence of the judiciary.

Ultimately, the proposals to reform operations and funding structure serve as the starting point of a long-term court funding reform effort in Washington State. **At the core of each BJA recommendation is a simple premise that equal justice is not a goal to strive for. Rather it is the basic foundation of a just society.**

“We cannot continue to jeopardize the judicial branch in Washington State with a lack of funding,” said Court Funding Task Force Chair Wayne Blair. “To do so ignores Reverend King's proclamation and produces an unjust and unfair court system.”



The public defense crisis in Grant County has led to numerous instances in which defendants were found to have received ineffective and incompetent legal representation.

JUSTICE IN JEOPARDY

“Injustice
anywhere is
a threat
to justice
everywhere.”

–Martin Luther King, Jr.

April 16, 1963

The Court Funding Crisis In Washington State

Board for Judicial Administration
Court Funding Task Force
December 2004

CHALLENGES FACING OUR JUDICIAL SYSTEM

Chronic underfunding of our judicial branch has led to a crisis in trial court operations. Currently, a patchwork system of justice from one county to the next has caused serious disparities in the way laws are being enforced throughout Washington State.

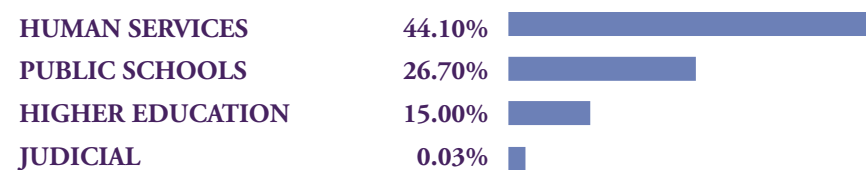
Washington's trial courts, consisting of more than 400 judges, adjudicate more than 2.3 million cases each year. The fate of millions of lives is decided by trial court rulings on criminal, civil, and family law cases.



According to a statewide fatality review panel in 2000, the death of 3-year-old Zy'Nyia Nobles could have been prevented, in part, if a courtroom had been available to hear a scheduled parental termination proceeding in Pierce County Superior Court. Due to additional court continuances and changes of social workers, new social workers assigned to the case chose to reunite the girl with her mother rather than go to trial. Less than one year later, Zy'Nia was kicked to death by her mother, who was sentenced to 30 years in prison.

A SNAPSHOT OF THE WASHINGTON STATE BUDGET

State funding of the judicial branch totals three tenths of one percent of the state budget.



For a branch of government that directly impacts the lives of citizens everyday, funding of our equal but separate branch of government is shockingly low.

Washington State ranks at the absolute bottom in the nation for state funding of our trial courts, prosecution, and indigent defense. With less than three-tenths of one percent of the State's budget going towards funding our judicial branch of government, it is without question that the lack of funding for Washington's trial courts critically impacts the judicial branch's ability to provide equal justice for all.

To address these issues the policy-setting body for the judicial branch of government, the Board for Judicial Administration, has embarked on a historic effort to reform court funding.

With a goal of developing a long-term strategy to reverse the court funding crisis, the Court Funding Task Force (chaired by former State Bar Association President M. Wayne Blair) included five workgroups totaling more than 100 members who labored throughout two years to define the funding problems, explore alternatives, and to create strategies for achieving change.

As part of their work, Task Force members and staff completed a comprehensive study on trial court funding and expenses, and gave their first presentation to state lawmakers in December of 2003.

FINDINGS OF THE TASK FORCE

“If we deny basic funding for the courts, we endanger public safety and fail to provide a neutral forum for people to resolve disputes,”

—American Bar Association President
Dennis Archer

■ Washington ranks 50th among U.S. states in the percentage of trial court, prosecution, and indigent defense costs paid by the state versus costs paid by local jurisdictions, according to the U.S. Justice Bureau. For instance, Connecticut's state government pays 92.2 percent of the state's trial court costs and judicial service costs (highest in the U.S.), while Washington's state government pays 14.7 percent (lowest in the U.S.).

■ A study of Washington State trial court costs for 2000, including expenses for indigent defense and other operating costs, showed expenditures of \$428.5 million.

■ State contributions toward trial court expenditures in 2000 totaled \$45.5 million.

■ Trial court fees and court fines totaled about \$176 million in 2002 — \$66 million (37.5 percent) went to the state, and \$110 million went to local governments.

■ In 2002, the Washington State Patrol was responsible for 88 percent of DUI (driving under the influence) charges and 70 percent of traffic infraction charges filed in district courts.

■ The state pays nothing toward the cost of district and municipal courts or trial court indigent defense.

■ The result of such a heavy dependence on city and county budgets is instability in court funding, as well as a potentially significant unevenness in judicial services from county to county and city to city. For example, some courts may operate without probation departments, bailiffs, and domestic violence services.

“Washington court funding is not adequate, is not stable, and is seriously uneven across the state from jurisdiction to jurisdiction,” Chief Justice Gerry Alexander told House Judiciary Committee members. “It substantially interferes with our trial courts' ability to perform their core functions at all levels.”

Early examples included King County closing two district court locations, eliminating 70 positions, and consideration of cutting the entire district court probation department in response to

budget cuts. A survey showed that 43 percent of the state's district and municipal courts have no probation services to perform pre-sentence investigations or to monitor potentially dangerous defendants. Courts across the state considered closing for certain hours or days of the week to save money.

Following two years of work, the Court Funding Task Force determined that adequate funding of the state's trial courts would cost an additional \$204 million per year.



In our civil justice system, an overwhelming majority of low-income households go without any legal assistance in matters impacting basic human needs such as housing, family safety, health and employment. According to a recent study, more than 85 percent of low-income individuals who experience a civil legal problem do not get any assistance whatsoever and end up living with the consequences of their problem.

That unmet need is broken into three critical areas where inadequate funding is significantly impacting the lives of Washington citizens — trial court operations, with an additional \$53.8 million needed for courts across the state; public or “indigent” defense, with an additional \$131.9 million needed for defense of low-income residents; and civil legal services, with an additional \$18.3 million needed to help vulnerable citizens with serious legal problems regarding housing, employment, and family safety.

The Task Force also concluded that the state should share more equitably in funding trial courts and indigent defense — recommending a roughly 50-percent split — which would help stabilize court funding and make it more equitable across the state.

While local government currently bears nearly 90% of the burden of funding the trial courts and indigent defense services for criminal and dependency cases, the Task Force concluded that the state has a strong interest in the operations of the trial courts and should be a partner with local government in their funding.

The Task Force developed a model to assess the state's participation based on those areas where a strong connection or “nexus” is most clear between state actions or state mandates and the costs of court operations; the Task Force concluded these areas should be funded by the state. The items identified included judges' salaries at superior, district, and municipal courts; the verbatim records of proceedings; mandatory arbitration; juvenile dependency representation; guardians' ad litem in dependency cases; interpreters; criminal defense; juror fees; and mileage and witness costs.

After establishing the amount of unmet need and finalizing its report in late 2004, the state's Board for Judicial Administration developed starting-point recommendations for change to three crucial areas of trial court operations, indigent defense, and civil legal services.

In addition to its proposal for trial court funding reform, the Court Funding Task Force examined the structure and court funding issues in Washington State's courts of limited jurisdiction. The Task Force concluded that local jurisdictions would benefit from a less fragmented set of statutory options for providing court services. Ultimately a more regionalized court structure with additional state financial support would achieve economies of scale savings and provide a more consistent level of services to citizens.



In 2001, crowded court calendars in one county delayed the trial of a violent felon two days beyond speedy trial deadlines. Released from jail, he broke into the home of a young mother and raped her, and while fleeing from police, crashed his vehicle into a motorist, killing the innocent bystander instantly.