



**WASHINGTON STATE  
OFFICE OF PUBLIC DEFENSE**  
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## **Washington State Office of Public Defense AGENCY PROFILE**

The Washington State Office of Public Defense (OPD) is an independent agency of the judicial branch established by the Legislature in 1996 and permanently re-authorized in 2008 at Chapter 2.70 RCW.

### **STATUTORY AUTHORITY**

The Office of Public Defense enabling statute is Chapter 313, Laws of 2008, RCW 2.70 et. seq., which directs OPD to implement the constitutional and statutory guarantees of counsel and to ensure effective and efficient delivery of indigent defense services funded by the state.

### **ADVISORY COMMITTEE**

An Office of Public Defense Advisory Committee includes members appointed by the Chief Justice of the Washington State Supreme Court, the Governor, the Court of Appeals, the Washington State Bar Association, and City and County associations, in addition to two Senators and two Representatives selected from each of the two largest caucuses by the President of the Senate and Speaker of the House of Representatives, respectively. The Committee meets quarterly and advises the OPD Director.

### **PRIMARY PROGRAMS**

OPD administers state funds appropriated for a variety of public defense services, including:

- The Parents Representation Program, which represents indigent parents in dependency and termination cases under Chapter 13.34 RCW. The program also provides pre-petition representation in limited circumstances and a legal advice hotline for parents who are being asked to sign a voluntary placement agreement to place their children in state custody.
- The Forensic Civil Commitment Program, which represents indigent respondents facing civil commitment under Chapter 71.09 RCW, and also represents indigent respondents civilly committed as not guilty by reason of insanity (NGRI) under Chapter 10.77 RCW.
- The Appellate Program, which represents indigent clients when they have a right to counsel in the Court of Appeals and Supreme Court.
- Post-conviction representation for personal restraint petitions as provided in RCW 2.70.020(2) and RCW 10.73.150.
- The Youth Access to Counsel Program, which provides on-call attorney consultations for youth facing interrogation or search by law enforcement, as required by RCW 2.70.020 (4) and RCW 13.40.740.
- The Public Defense Improvement Program, which provides grant funding and technical assistance to cities and counties under Chapter 10.101 RCW.
- Coordinating the statewide public defense response to the *State v. Blake* decision, which requires resentencing and vacating convictions associated with unconstitutional felony drug charges.
- The Simple Possession Advocacy and Representation (SPAR) Program, which OPD created pursuant to RCW 2.70.200 to help local jurisdictions provide public defense representation in newly authorized misdemeanor drug possession cases.

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- Disproportionality Legal Training to help public defense attorneys challenge bias in the justice system and reduce disproportionate impacts on clients of color.

*Parents Representation.* OPD contracts with attorneys throughout Washington to represent parents involved in dependency cases and in cases where the state's Department of Children, Youth, and Families (DCYF) seeks to permanently terminate parental rights. The attorneys are assisted by OPD-contracted defense social workers, and represent approximately 7,000 parents a year. (In order to avoid legal conflicts of interest, children in these cases are represented by the state Office of Civil Legal Aid (OCLA)).

*Forensic Civil Commitment.* OPD contracts with attorneys throughout Washington to represent respondents facing indefinite civil commitment under Chapter 71.09 RCW and persons who are civilly committed as not guilty by reason of insanity (NGRI) under Chapter 10.77 RCW. The attorneys are assisted by OPD-contracted social workers, and represent about 240 respondents, with each case extending over many years from initial filing through release.

*Appeals.* OPD contracts with attorneys throughout Washington to represent indigent persons who have a right to appeal a Superior Court decision to the Washington Court of Appeals or Supreme Court. These comprise appeals in criminal and juvenile offender cases as well as certain non-criminal matters, including dependencies, parental terminations, RCW 71.09 and NGRI cases, as well as other types of civil commitment cases. OPD-contracted attorneys represent about 1,000 indigent appellants a year.

*Post-conviction.* OPD contracts with attorneys throughout Washington to represent indigent persons filing personal restraint petitions to challenge potentially unjust criminal judgments and sentences. Funding is limited and legal representation is prioritized for applicants who are under age 25, have a sentence longer than 120 months, have a disability, or have limited ability to read or write English. Pursuant to SB 5046, the program began January 2024, and between January 1 and June 30, 2024 OPD received 122 applications and assigned counsel to 25 clients.

*Youth Access to Counsel.* OPD contracts with attorneys to staff a 24/7 access-to-counsel phone line. Washington statutes require law enforcement to provide youth under age 18 with an attorney consultation during certain phases of police investigation. The program ensures that youth understand their constitutional rights in stressful circumstances where studies show that without legal assistance they are unable to comprehend their legal choices, exercise their rights, or meaningfully consider the consequences of their choices. The hotline serves about 2,500 youth annually.

*Public Defense Improvement.* Under a program established in 2005 and codified at Chapter 10.101 RCW, OPD provides grant funding, oversight, and technical assistance to counties and cities to improve local public defense in felony and misdemeanor cases. Ten percent of the appropriated funds are allocated to cities through a competitive grant process. Ninety percent of funds are allocated to counties using a statutory formula based on population and felony filings. OPD currently distributes about \$6.8 million annually.

*Blake Response.* In February 2021 the Washington Supreme Court issued the landmark decision, *State v. Blake*, 197 Wn.2d.170 (2021), which held that Washington's felony drug possession law violated due process. As a result, all convictions under the statute are void, retroactive to 1971. The Legislature has appropriated funding

to OPD to help counties provide *Blake* relief and to implement a public defense Triage Team to provide statewide support to the management and flow of resentencing hearings for individuals impacted by *Blake*.

*Simple Possession Advocacy and Representation (SPAR)*. The 2023 Legislature passed SB 5536, the “Blake fix” bill, directing OPD to reimburse cities and counties under a certain population threshold for public defense expenses related to newly authorized misdemeanor drug possession charges, or at the election of the jurisdiction, to contract directly with attorneys to represent indigent people charged in local possession cases. In Fiscal Year 2024, SPAR reimbursed more than \$630,000 in defense costs to 25 counties and cities. For Fiscal Year 2025 SPAR has approved 32 grant recipients, totaling just under \$4 million in encumbered funds. In addition, SPAR is contracting directly with indigent defense providers at the request of four jurisdictions.

*Disproportionality Legal Training*. Two OPD staff attorneys conduct research, identify inequities caused by structural/institutionalized racism in the legal system, explore innovations in systemic litigation practices, and provide individualized consultation to attorneys statewide seeking technical assistance on disproportionality issues in criminal defense and parent representation/child welfare cases.

### **AGENCY STRATEGIC PLAN**

In consultation with agency employees and the OPD Advisory Committee, OPD engaged in a strategic mapping process and updated the agency’s Strategic Plan in 2021. Further updates are in process.

#### *OPD MISSION*

“Upholding the rights of all people who are facing the loss of liberty or family by providing statewide leadership, administration, and support to the multidisciplinary public defense profession.”

#### *OPD VISION*

“Public defense clients, everywhere in the state, receive truly equitable and client-centered representation from fully supported professionals.”

#### *OPD VALUES*

Justice ■ Service ■ Equity ■ Excellence

#### *OPD STRATEGIC GOALS*

- Be the public service agency of choice across all levels of the public defense system.
- Secure funding, support, and accountability for statewide multidisciplinary public defense services.

#### *OPD STRATEGIES*

- Improve internal OPD administrative infrastructure to increase organizational effectiveness.
- Define OPD presence, improve outreach, and increase engagement with the community.
- Secure funding to implement the OPD mission and vision.
- Improve recruitment and training for OPD contractors.
- Increase race equity and diversity within the agency and among OPD contractors.

#### *OPD STAFFING*

See attached organizational chart.