

Washington State Judicial Branch 2023-25 Biennial Budget Public Defense Innovation Grants

Agency: Office of Public Defense

Decision Package Title: AC – Public Defense Innovation Grants

Agency Recommendation Summary Text:

OPD requests \$5.2 million and 2 FTEs to fund and administer new “Innovation Grants” for local governments to implement creative approaches to improve local public defense services. Innovation Grants would be awarded on a competitive basis and would supplement current state funding provided pursuant to Chapter 10.101 RCW. Adult criminal and juvenile public defense services are administered and funded largely by counties and cities, with current state grants covering less than 4 percent of local government public defense costs. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	2.00	2.00	2.00	2.00	2.00	2.00
Operating Expenditures						
Fund 001-1	\$5,227,217	\$5,217,217	\$10,444,434	\$5,217,217	\$5,217,217	\$10,434,434
Object of Expenditure						
A Salaries	\$164,404	\$164,404	\$328,808	\$164,404	\$164,404	\$328,808
B Benefits	\$37,813	\$37,813	\$75,626	\$37,813	\$37,813	\$75,626
E/J Supplies & Equipment/One-time start-up costs	\$10,000	\$0	\$10,000	\$0	\$0	\$0
E/G Supplies & Travel ongoing	\$15,000	\$15,000	\$30,000	\$15,000	\$15,000	\$30,000
N Grants/ Cities & Counties	\$5,000,000	\$5,000,000	\$10,000,000	\$5,000,000	\$5,000,000	\$10,000,000
Total Expenditures						
	\$5,227,217	\$5,217,217	\$10,444,434	\$5,217,217	\$5,217,217	\$10,434,434

Package Description:

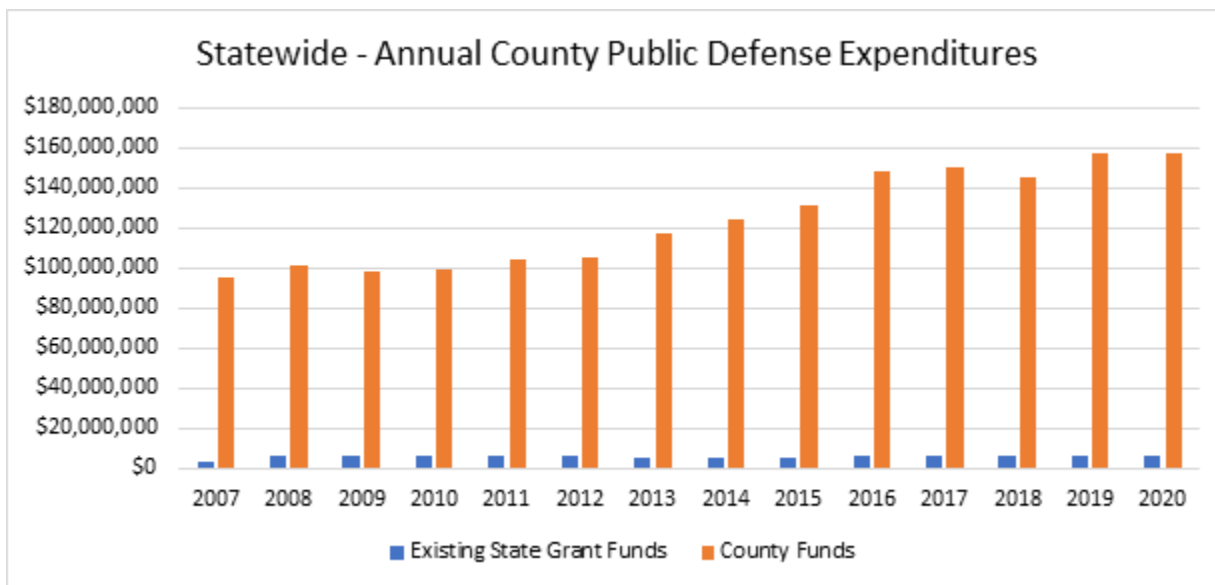
Background:

While Washington State fully funds and administers a few specialized areas of public defense (dependency and termination cases, cases filed under RCW 71.09, and indigent appeals), county and city governments administer and fund the largest volume of public defense services statewide, including representation in all indigent adult criminal and juvenile cases at the trial level.

In 2005 the Washington Legislature enacted a statutory grant program authorizing OPD to disburse appropriated state funds to counties and cities to achieve minimum public defense requirements. (RCW 10.101.050 - .080) Ten percent of the funds are allocated to cities through a competitive grant process. Ninety percent are allocated to counties through a formula grant process. Each county’s allocation is determined by a statutory formula based on population and felony filings. OPD annually distributes \$5,821,675 to counties and \$1,013,250 to cities, for a combined total of \$6,834,925.

Current Situation:

Local public defense costs are increasing. Rising costs are attributable to multiple factors, such as increased case filings and more complex cases, the implementation of mandatory attorney caseload standards, rising business costs for contracted providers, and in many counties a scarcity of qualified attorneys. Counties reported spending a combined total of \$163,274,048 on local public defense services in calendar year 2020. State funds distributed through the existing Chapter 10.101 RCW grant program account for less than 4 percent of county public defense expenditures. The chart shows the comparison between state Chapter 10.101 RCW funds distributed to counties in blue, and counties’ public defense expenditures in orange.



Similar data is not available for city public defense expenditures statewide, because cities are not required to report expenditure data unless they apply for the competitive grant program. Only about 30 cities participate each year, with periodic turnover among the applicants and variation in the city grant awards.

Proposed Solution:

OPD seeks funding to establish new “Innovation Grants,” which would increase funding to approximately 15-25 local governments each year based on a competitive application process. This would be in addition to grants currently distributed through the RCW 10.101 program. Innovation Grants would be used for non-supplanting purposes, and to support the costs of new innovations to expand or improve services provided by local government public defense agencies and contracted attorneys. Examples could include:

- Expansion of technology for more efficient caseload management and client communication;
- Integrating social workers in juvenile public defense teams to address root causes of youth criminal behaviors and identify alternatives to incarceration;
- Restorative justice programs to foster non-court resolutions that are helpful to victims and communities;
- Technological solutions for reviewing the increased volume of bodycam videos that are utilized as evidence in criminal cases; or
- Establishing internships and mentoring programs to promote law school students’ interest in public defense – particularly in small and rural communities.

Innovation Grants would be competitive, and award priority could be based on factors such as local poverty rates, challenges specific to rural communities, collaboration with other justice-system stakeholders, or demonstrated creative problem-solving to improve local services.

In addition to evaluating applications, awarding grant funding, and overseeing compliance with the terms of the grants, the OPD managing attorney and assistant would evaluate local outcomes and share details about innovation successes with other jurisdictions, to help them make informed decisions about adopting and implementing similar programs in their communities. Innovation Grants would not be long-term solutions for local government recipients, and funding for individual projects would be time limited. During this time period the jurisdictions would be able to measure outcomes and determine whether to locally sustain those public defense improvements on an on-going basis.

Fully describe and quantify expected impacts on state residents and specific populations served:

Innovation Grants would allow city and county governments to implement new emerging technologies, programs, and practices that improve public defense services. This would benefit local governments’ budgets, provide higher quality services to their communities, and improve outcomes for clients, including adults and youth of color who are disproportionately overrepresented in the criminal legal system.

Explain what alternatives were explored by the agency and why they were rejected as solutions:

OPD has actively sought federal grant opportunities to assist local governments to enhance and innovate local public defense services. OPD currently manages a grant from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, to integrate social workers into juvenile defense in Benton and Franklin Counties. This three-year project is funded at a total amount of \$445,247.

Unfortunately, grant opportunities from the federal government are rarely available for public defense services. They are not a viable alternative to incentivize improvements in multiple counties and cities.

What are the consequences of not funding this request?

Not funding this request would result in the status-quo situation, where state funds account for less than 4 percent of city and county public defense expenditures, and where many local governments have no incentive or available funding to try new ideas.

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

No. Currently counties are awarded formula grants from OPD for public defense improvements, but the allocated amounts are set by a statutory formula in RCW 10.101.070. Innovation Grants would be in addition to the existing RCW 10.101 grants. Innovation Grants would be competitive, and award priority could be based on factors such as local poverty rates, challenges specific to rural communities, collaboration with other justice-system stakeholders, or demonstrated creative problem-solving to improve local services.

Decision Package expenditure, FTE and revenue assumptions:

Staffing Assumptions:

OPD would employ 1 FTE Managing Attorney and 1 FTE Administrative Assistant to manage the Innovation Grants program.

Job Title/Classification	# of FTEs	Workload assumptions?
Managing Attorney	1.0	The attorney would carefully work with communities to implement and evaluate implementation programs.
Administrative Assistant	1.0	The administrative assistant would support the work with applications, grant reports, invoices, travel arrangements, and data collection

Goods and Services:

\$5,000

Costs for attending and conducting Trainings. The OPD Managing Attorney would attend trainings to learn about innovative developments in other states, and share lessons-learned by conducting local trainings for public defense administrators in Washington.

Travel:

\$10,000

The OPD Managing Attorney would travel to grant implementation sites to monitor grant performance and help evaluate program outcomes.

Grants or Pass-Through Funding:

\$5,000,000

Annual Amount	Grant Type	Approx Number of Grant Sites	Recurrence
\$5,000,000	Competitive	15-25	Ongoing

OPD would distribute \$5,000,000 in Innovation Grants annually to cities and counties through a competitive grant process. It is anticipated that approximately 15-25 sites would be funded each year. Funding would support non-supplanting improvements to public defense. Grant recipients would receive funding for a limited period not to exceed six years. Thereafter new grant sites would be selected to fund additional innovations.

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

- *Fair and Effective Administration of Justice:* Innovation Grants would help local communities provide public defense representation at all critical phases of criminal and juvenile offender cases, and identify solutions to help reduce the root causes of criminal behavior.
- *Access to Necessary Representation:* Innovation Grants would help cities and counties find technological and programmatic solutions to help improve the quality and efficiency of public defense representation.
- *Sufficient Staffing and Support:* This Decision Package would provide funding to support adequate staffing at OPD to fully implement the grant program, including oversight and technical assistance.

Are there impacts to other governmental entities?

Innovation Grants would assist counties and cities.

Stakeholder response:

Innovation Grants would directly improve services to public defense clients and the communities in which they live. OPD expects counties, cities, and their public defense providers would support this Decision Package.

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

No.

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

No.

Are there impacts to state facilities?

No.

Office of Public Defense
Policy Level – AC – Public Defense Innovation Grants

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

[Indigent Defense Innovation](#) – Texas Indigent Defense Commission

Are there information technology impacts?

No

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