

Washington State Judicial Branch

2023-25 Biennial Budget

Legal Support Staff for OPD Managing Attorneys/Client Services

Agency: Office of Public Defense

Decision Package Code/Title: AK – Legal Support Staff

Agency Recommendation Summary Text:

OPD requests funding for 2 FTE paralegals and 3 FTE legal assistants to support OPD managing attorneys, cover increasing workload in client-services programs, and better align OPD with legal support staffing models used in other state agencies. Funding this request would be consistent with the Legislature’s decision to include paralegal support in OPD’s *State v. Blake* response in the current biennium. The presence of *Blake* paralegals has demonstrated high value and illuminated a clear need for paralegal and legal assistant support in OPD’s client-services programs. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	5.00	5.00	5.00	5.00	5.00	5.00
Operating Expenditures						
Fund 001-1	\$407,666	\$382,666	\$790,332	\$382,666	\$382,666	\$765,332
Object of Expenditure						
A/B Salaries & Benefits	\$382,666	\$382,666	\$765,332	\$382,666	\$382,666	\$765,332
E/J One-time start-up costs	\$25,000	\$0	\$25,000	\$0	\$0	\$0
Total Expenditures						
	\$407,666	\$382,666	\$790,332	\$382,666	\$382,666	\$765,332

Package Description:

Problem:

Workload is increasing in existing OPD programs that provide attorney training and client services. In particular, OPD is receiving more requests, and more-complex requests, for a variety of technical assistance from OPD-contracted attorneys, as well as from local governments and courts. Professional paralegals and legal assistants would be able to directly respond to many of these requests and to support OPD managing attorneys for the more complex requests. Historically OPD has maintained a low ratio of support staff compared to other organizations focused primarily on legal services. For example, OPD currently employs 0.39 FTE support staff per 1 FTE agency attorney. By comparison, the Attorney General’s Office staff ratio is 0.89 FTE support staff per 1 FTE attorney.¹

The Legislature included paralegal support for OPD’s *State v. Blake* response in the 2021-2023 biennium, and the paralegals have contributed greatly to OPD’s progress on *Blake*-related work to resentence individuals and vacate old convictions. The presence of *Blake* paralegals has illuminated a clear need to add professional paralegal and legal assistant support staff to cover critical workload in OPD’s other client-services programs.

¹ Attorney General Office staffing ratio, attached below, was provided in response to an OPD records request.

Support staff needed by OPD Program area:

Disproportionality Legal Training Program. The 2019 Legislature funded OPD for [Disproportionality Advocacy](#) to help public defense attorneys challenge bias in the justice system and reduce disproportionate impacts on their clients of color. Two attorneys comprise the Disproportionality Legal Training Program, and they engage in research regarding data studies, identify inequities caused by structural/institutionalized racism in the legal system, explore innovations in systemic litigation practices that will drive data research projects, and provide individualized consultation to attorneys statewide seeking technical assistance on specific criminal defense and parent representation/child welfare issues.

The Disproportionality Legal Training Program requires 1 FTE legal assistant to help develop and distribute training resources and antiracism advocacy tools, conduct web-based and in-person training, and provide supports to OPD-contracted attorneys and other attorneys engaged in indigent defense throughout Washington State.

Appellate Program. OPD's [Appellate Program](#) provides attorney training and administers contracts with 39 FTE attorneys to represent indigent clients who have a right to counsel in the Court of Appeals and Supreme Court. The Appellate Program must monitor contract attorney performance and caseloads and adjust case assignments accordingly, as well as review and approve transcript fees from county clerks and court reporters. The Program is currently administered by a managing attorney who also serves as the agency's deputy public records officer and primary contracts advisor, and an assistant who also serves as the agency's on-site IT coordinator.

The Appellate Program requires 1 FTE paralegal to provide technical assistance for trial attorneys, including OPD-contracted Parent Representation Program and 71.09 attorneys, to ensure they file appeals correctly and avoid paperwork errors that can delay appellate court review. An Appellate Paralegal also would ensure timely coverage to connect appellate and trial counsel on confidential case types where information is restricted on online court databases. Currently, this critical connection can be delayed if the Appellate Program Managing Attorney is not available. With a paralegal, the Program also could begin organizing and collating appellate briefs into an analytical format that contract attorneys could use to pursue vital systems change.

Parent Representation Program. The OPD [Parent Representation Program](#) contracts with 133 FTE attorneys and 44.9 FTE social workers/social service workers throughout the state to represent parents in dependency and termination cases. OPD currently employs 3 FTE clerical assistants to support 6 FTE Managing Attorneys and 2 FTE Social Work Managers. Among other duties, the Parent Representation Program managers authorize expert services, monitor attorney caseloads, coordinate online and in-person training programs, and field calls, texts, and emails from contractors in need of expert services or other case-related assistance. Contractors often require substantial time commitment from OPD Managers to join in-depth strategy discussions about complex cases.

The Parent Representation Program requires 1 FTE paralegal to provide overall administrative support for the managers and contractors. A paralegal would help streamline workflow among the clerical assistants and would serve as a liaison between the Program Managers and the OPD Fiscal Department when contractor payment questions arise. A paralegal would coordinate case updates and practice advisories, maintain sample legal briefs and motions, and provide routine assistance for contracted attorneys. A paralegal also could be assigned to regularly analyze contractor caseload data to ensure that the Parent Representation Program contract attorneys remain in compliance with Washington Supreme Court caseload standards.

Public Defense Improvement Program. OPD's [Public Defense Improvement Program](#) addresses a wide variety of legal issues relating to the structure and delivery of trial-level criminal public defense services in counties and cities. The program's Managing Attorneys are experienced litigators who provide technical assistance and training to local government and court stakeholders statewide to help resource, support, and improve public defense services. Counties

and cities increasingly are seeking OPD guidance to develop and stand-up local public defender agencies – a typically complex and time-intensive process.

The Public Defense Improvement Program requires 1 FTE legal assistant to perform legal research, help draft training materials and resources, track court data, and spearhead statewide training efforts for paralegals and legal assistants in local public defense offices statewide.

RCW 71.09 Civil Commitment Program. OPD’s [RCW 71.09 Program](#) contracts with 20.5 FTE attorneys statewide in a highly specialized field of practice, which uniquely intersects criminal and civil law, to represent people facing indefinite civil commitment at the state’s Special Commitment Center. Most 71.09 trials last multiple weeks and involve significant use of national and local experts. An experienced litigator serves as Managing Attorney for OPD’s 71.09 Program, but lacks legal support staff. The Managing Attorney must monitor contract attorney performance and caseloads and adjust case assignments accordingly, coordinate attorney training, field calls from the Special Commitment Center, and review and approve contractor requests for experts, investigators, and other litigation services.

The 71.09 Civil Commitment Program requires 1 FTE legal assistant to help with legal research and writing, support attorney training programs, analyze data, and research and catalogue expert services utilized by contracted attorneys in their cases.

Proposed solution:

OPD requests funding for 2 FTE paralegal positions and 3 FTE legal assistant positions to support OPD’s managing attorneys and advance the agency’s attorney training and client-services programs.

Fully describe and quantify expected impacts on state residents and specific populations serve

Adding legal support staff would directly benefit OPD managing attorneys, and by extension would benefit OPD contract attorneys and clients as well as local public defense services and clients. With the addition of legal support staff to handle routine technical assistance, OPD Managing Attorneys would be able to focus on requests from OPD contractors for in-depth strategy discussions and assistance in complex cases, and also would be able to provide local governments with customized resources to address local public defense issues.

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

OPD considered the following alternatives:

- Do nothing. Rejected because OPD has experienced the value of 2 paralegal positions that were funded to implement OPD’s *Blake* response, and the agency now understands how paralegals and legal assistants could elevate productivity in the other client-services programs.
- Limit or ration technical assistance for OPD contractors and local government partners. Rejected because technical assistance to OPD-contracted attorneys and local government public defense providers is a core agency function. RCW 2.70.020(4) requires OPD to provide oversight and technical assistance to ensure effective and efficient delivery of services in the Office’s program areas.

What are the consequences of not funding this request?

Not funding this request would limit and delay OPD’s response to requests from contractors and local governments. Existing clerical staff and managing attorneys would continue to struggle to cover current workload.

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

No.

Decision Package expenditure, FTE and revenue assumptions:

Estimated Staff:

OPD would add 2 FTE Paralegals at the equivalent of Range 58H and 3 FTE Legal Assistants at the equivalent of Range 55A of the general state salary schedule.

Equipment

\$25,000. Start-up equipment (one-time expenditure) would be purchased at a cost of \$5,000 per FTE.

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

- *Access to Necessary Representation:* Legal support staff would help provide timely technical assistance for contracted attorneys who ensure the right to counsel for indigent clients.
- *Sufficient Staffing and Support:* Professional paralegals and legal assistants are required to directly respond to increasing requests for technical assistance and support OPD managing attorneys for the more complex requests

Are there impacts to other governmental entities?

No.

Stakeholder response:

OPD-contracted attorneys and local government public defense providers expect OPD to be able to support their requests for information and technical assistance. It is expected these stakeholders 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.

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

Data provided by the Attorney General's Office support this request as a matter of equity in staffing ratios for state agencies whose core responsibilities focus on legal services. The AGO provides 0.89 FTE support staff per 1 FTE attorney – more than double the 0.39 support staff currently provided per attorney at OPD.

Office of Public Defense
Policy Level – AK – Legal Support Staff

Data Provided by the AG's Office on
7/6/22 in response to OPD request

Attorney General's Office				
Divisions	Attorney	Legal Assistant	Office Assistant	Paralegal
Administration	2		1	
Agriculture and Health	14	5	1	2
Antitrust	9	3		3
Civil Rights Division	11	3		
Complex Litigation	22	8	1	9
Consumer Protection	35	12		15
Corrections	15	8	1	6
Criminal Justice	25	9	1	8
Ecology	25	6	1	2
Education	10	3		
Environmental Protection	10			2
Financial Services			2	
General Services			12	
Government Compliance and Enforcement	27	12	1	8
Information Services			1	
Labor and Industries	49	18	8	25
Labor and Personnel	14	3	1	3
Licensing & Administrative Law	19	7	3	2
Medicaid Fraud Control Division	9	4		5
Policy Unit	1			
Public Lands & Conservation	21	7	1	3
Regional Services	74	41	8	16
Revenue and Finance	18	5	1	3
Social and Health Services - Olympia	54	19	3	14
Social and Health Services - Seattle	29	13	1	10
Solicitor General	10	3		1
Spokane	47	25	5	17
Tacoma	35	20	7	18
Torts	38	20	5	25
Transportation and Public Construction	14	2		4
University of Washington	17			
Utilities and Transportation	6	2		
Washington State University	4			
Total Divisions	664	258	65	201

Work Areas	49	18	8	25
	9	5		5
	10	6	1	5
L&I	68	29	9	35
	2	1		
	9	4		5
Medicaid Fraud	11	5		5

Office of Public Defense
Policy Level – AK – Legal Support Staff

	54	19	3	14
	29	13	1	10
	19	10	2	6
	19	10	4	8
Social & Health	121	52	10	38
	8	4		5
	6	4		5
	38	20	5	25
Torts	52	28	5	35
Total Work Areas	252	228	48	226

Total Divisions & Work Areas	916	486	113	427
Support Staff-to-Attorney Ratio = .89	0.89	1026		

Are there information technology impacts?

No

Agency Contacts:

Sophia Byrd McSherry, Deputy Director

360-586-3164, ext. 107

sophia.byrdmcsherry@opd.wa.gov