

**Washington State Judicial Branch
2023-25 Biennial Budget
Redemption Project of Washington
(Pass-through funding to the Washington Defender Association)**

Agency: Office of Public Defense

Decision Package Title: AQ – Redemption Project of Washington

Agency Recommendation Summary Text:

OPD requests \$990,000 for the 2023-2025 biennium to sustain the Redemption Project of Washington, administered by the nonprofit Washington Defender Association (WDA). The Redemption Project provides training and resources for public defense attorneys statewide to develop skills and expertise in the emerging practice area of second look resentencing, and it directly provides case assistance for some clients in resentencing. The Project launched in 2021 with funding from a federal Byrne/JAG grant, which expires at the end of Fiscal Year 2023. Ongoing funding is required to implement key reforms created by the Legislature and the Courts to correct excessive criminal sentences and remedy unconstitutional convictions. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$495,000	\$495,000	\$990,000	\$495,000	\$495,000	\$990,000
Object of Expenditure						
NB Pass-Through to WDA	\$495,000	\$495,000	\$990,000	\$495,000	\$495,000	\$990,000
Total Expenditures						
	\$495,000	\$495,000	\$990,000	\$495,000	\$495,000	\$990,000

Package Description:

Background:

In 2022, the Washington Defender Association (WDA), in collaboration with the Seattle Clemency Project, received federal Byrne-JAG grant funding for a pilot project to help public defenders develop skills and expertise in the emerging practice area of criminal resentencing. The Redemption Project of Washington, as the pilot project has become known, also provides the right to counsel for persons eligible for resentencing, and helps to dismantle racial injustice caused by state policies that have resulted in discriminatory impacts and unjust sentences for BIPOC Washingtonians.

In addition to the well-known *State v. Blake* case, since 2020 the Washington Legislature and Supreme Court have significantly expanded rights to be resentenced pursuant to the following cases and statutory amendments:

- *Matter of Domingo-Cornelio*, 196 Wn.2d 255, 474 P.3d 524 (2020) and *Matter of Ali*, 196 Wn.2d 220, 474 P.3d 507 (2020) (sentencing courts consideration of youthfulness at time of sentencing is retroactive).

- *In re PRP Monschke*, 197 Wn.2d 305, 482 P.3d 276 (2021) (consolidated with *In re PRP Bartholemew*) holding that mandatory life without parole (LWOP) for aggravated murder is unconstitutional for young adults who are 18-20 years old at the time of offense (youthfulness of young adults below the age of 21 must be considered by the sentencing court).
- Amendments to RCW 9.94A.647 to retroactively remove Robbery in the Second Degree as a “strike offense.”
- Amendments to RCW 36.27.130 to authorize resentencing initiated by a prosecutor.

These legal reforms apply to thousands of individuals currently serving lengthy prison sentences, but their right to be resentenced is not self-executing. Persons impacted by these changes must petition from prison to access to their right to resentencing. The Redemption Project helps them access their right to be resentenced and their right to counsel, and supports public defenders across the state in the emerging second look resentencing work.

The Redemption Project of Washington also increases access to relief for individuals whose prior convictions are unconstitutional because they were not properly informed of the immigration consequences of a guilty plea. In *Padilla v. Kentucky*, the United State Supreme Court held that the Sixth Amendment’s right to effective assistance of counsel mandates that defense attorneys provide their noncitizen clients with affirmative, accurate advice about the immigration consequences of accepting a plea. In *In Re Tsai* (2015), the Washington Supreme Court held that the one-year time bar to petition for post-conviction relief does not apply to these petitions, rendering *Padilla* retroactive in Washington state. Although the law provides a clear pathway to relief for individuals who were misinformed of immigration consequences, hundreds of impacted individuals cannot access qualified and free counsel to file the initial motion for relief. The Redemption Project of Washington helps these individuals access counsel, their right to challenge their conviction, and supports lawyers through the process.

Problem:

Federal Byrne-JAG grant funding expires in Fiscal Year 2023. Without an alternative funding source, the Redemption Project would have to severely scale back or cease operations.

Proposed Solution:

OPD requests pass-through funding for the Washington Defender Association (WDA) to sustain ongoing work of the Redemption Project. WDA would use state funding to maintain the following WDA positions: *(All FTES are WDA staff positions.)*

- 1 FTE criminal attorney to provide training, resource assistance and case consultation for public defense attorneys representing those sentenced as juveniles and young adults with a special emphasis on post-conviction cases: \$320,000/biennium.
- .5 FTE immigration attorney to review and triage post-conviction cases with immigration consequences and to provide immigration law assistance in these cases: \$160,000/biennium.
- 1 FTE post-sentencing attorney to provide direct case assistance to those currently incarcerated who are eligible for relief to ensure they are connected with a government appointed lawyer and/or obtain pro bono counsel if the right to counsel has not yet attached: \$320,000/biennium.
- 1 FTE formerly incarcerated person to train attorneys in working with individuals who have spent significant time incarcerated as well as to act as a resource and intermediary with clients and the community: \$190,000/biennium.

The WDA positions would continue training, case consultation, and case assistance already underway for public defenders and pro bono counsel working on resentencing cases in courts throughout the state. WDA also would

continue providing case assistance for underserved populations impacted by the criminal legal system. These services would include:

- Individualized case assistance for **those who are seeking early release from prison through resentencing.**
 - **Case consultations:** WDA expects to complete at least 100 by the end of the Byrne/JAG grant and **at least 400 in the 2023-2025 biennium.**
 - **Direct case support:** To date, approximately 65 individuals have been screened for resentencing and as of September 2022, 25 individuals have been released from prison. Up to 50 are expected to be released by the end of the current grant period. In the 2023-2025 biennium WDA **projects that it would screen at least 400 individuals with at least 200 individuals being assisted during the 2023-2025 biennium.**
- Individualized case assistance for **those who are facing deportation due to an old conviction that is invalid on constitutional grounds.** Priority would be given to lawful permanent residents for whom a pardon, vacation of conviction, or resentencing would avoid deportation.
 - **Case Assistance:** WDA expects to assist at least 30 individuals over the course of the grant and **at least 75 during the 2023-2025 biennium.**
- The community outreach specialist serves as a liaison with incarcerated individuals, many of whom have served extremely long sentences, and their attorneys to facilitate communication and establish trust between them as well as their families and communities to support successful reentry.
 - Technical assistance and case support for attorneys seeking community support for a client’s resentencing efforts and re-entry plans. **WDA anticipates involvement in at least 100 cases over the 2023-2025 biennium.**
 - Technical assistance for counties and public defense providers to develop “Participatory Defense” programs in their jurisdictions. These programs integrate family and stakeholder community groups in an individual’s resentencing and re-entry. WDA has been working with several jurisdictions under the Byrne/JAG grant **and anticipates supporting efforts in at least 10 counties over the 2023-2025 biennium**
 - WDA expects at least 20 visits to meet with impacted individuals in state institutions that will include meetings of the Black Prisoners Caucus and the Concerned Lifers Organization by the end of the grant, and **at least 50 visits during the 2023-2025 biennium.** This includes mentoring services for incarcerated individuals and others seeking support during the resentencing process.
- **Training and Resource Support:** These post-conviction trial level cases are a new and specialized area of practice that is emerging not only in Washington but also across the country as the legal system begins to address excessive sentences through second look reforms. Whether individuals in prison are seeking relief through resentencing or relief from deportation due to an unconstitutional conviction, attorneys can receive assistance to address complex legal issues, mitigation support, guidance on navigating the state Department of Corrections and U.S. Immigration Court systems, and reentry planning through practice advisories that walk them through the process. This advice helps reduce appeals and unnecessary additional legal procedures.
 - **Training:** WDA expects to provide at least 20 hours of training by the end of the grant to defenders, judges, prosecutors, DOC, and incarcerated individuals. WDA anticipates providing **at least 50 hours of training over the 2023-2025 biennium.**

- Publications: WDA will complete more than 15 practice advisories by the end of the grant, and expects to create or update **at least 30 practice advisories over the 2023-2025 biennium**.
- Expert and Brief Banks: These resources prevent individual attorneys from having to reinvent the wheel by providing templates for specialized briefs and motions.
- Resentencing Case Reports: WDA will track outcomes in resentencing cases statewide to quantify the benefits, such as, 1) Costs of incarceration avoided; 2) Years of incarceration avoided; 3) Number of families reunited; and 4) Number of formerly incarcerated people employed and paying taxes in the community.

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

This Decision Package would ensure that the Redemption Project can continue to help persons exercise their right to petition for resentencing. These individuals disproportionately are poor and from communities of color. Incarcerated individuals, their families, and their communities have been subject to disproportionate policing, charging, and sentencing practices which have harmed the credibility of the criminal legal system. The Redemption Project will positively impact state residents and support state agencies and priorities, especially as they relate to addressing historic racial ethnic inequities in charging and sentencing practices. It also is a benefit to local governments and public defense providers with limited resources to help improve the quality of representation in these specialized cases.

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

1. OPD inquired about WDA’s ability to further raise member dues, use reserve funds, and secure grants. This alternative was rejected because WDA has utilized these alternative fund sources to their maximum capacity.
2. OPD considered leaving WDA to take their request directly to the Legislature. OPD rejected this alternative because this request is well-aligned with OPD’s mission and values. OPD often has included WDA requests for pass-through funding in an agency Decision Package.

What are the consequences of not funding this request?

Not funding this request would lead to failed implementation of key reforms that have been created by the Legislature and the Courts to correct excessive criminal sentences and remedy unconstitutional convictions. Because many of these cases are decades old, many individuals are located in prisons far away from public defenders, and cases historically have not come back to the trial court level for a second look in such large numbers, the Redemption Project is building a two-way bridge to connect individuals with public defenders and defenders with their clients. The Redemption Project has developed expertise in this new kind of post-conviction work and is sharing it efficiently and effectively across the state to ensure public defenders have support to do their best work and to ensure that the reforms deliver just outcomes. Not funding this request would leave hundreds of people who are entitled to post-conviction relief to fall through the cracks, serve unnecessarily long sentences, or to be deported based on invalid convictions. Such consequences impose a financial cost to the state as well as a societal cost to the impacted individuals, their families, and their communities.

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

This Decision Package would provide pass-through funding to the Washington Defender Association to sustain the Redemption Project, which was piloted with Byrne-JAG grant funding and has demonstrated the ability to effectively assist persons who have a right to seek resentencing.

Decision Package expenditure, FTE and revenue assumptions:

Grants or Pass-Through Funding

This Decision Package would provide \$445,000 per fiscal year to pass through to the Washington Defender Association.

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

- *Access to Necessary Representation:* WDA’s Redemption Project would continue to provide training and technical assistance for public defense attorneys working in the emerging practice area of criminal resentencing. The Project also would continue to provide case assistance directly to persons eligible for resentencing.

Are there impacts to other governmental entities?

No.

Stakeholder response:

OPD anticipates that defense attorneys and incarcerated persons who have right to seek resentencing 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?

[Redemption Project of Washington](#), WDA website

[Redemption Project of Washington overview](#), WDA/SCP publication

[Redemption Project of Washington flowchart](#), WDA/SCP publication

Are there information technology impacts?

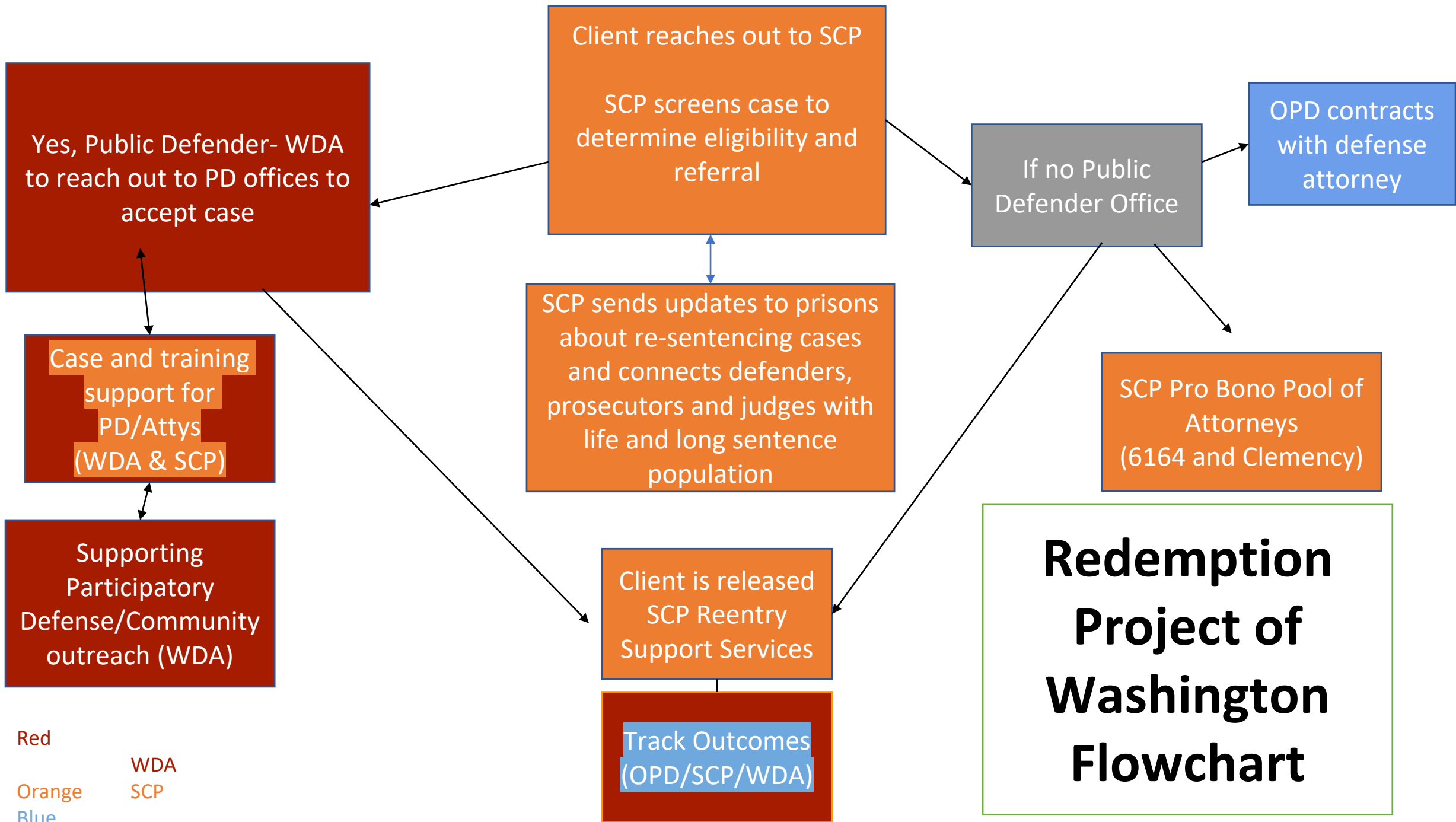
No

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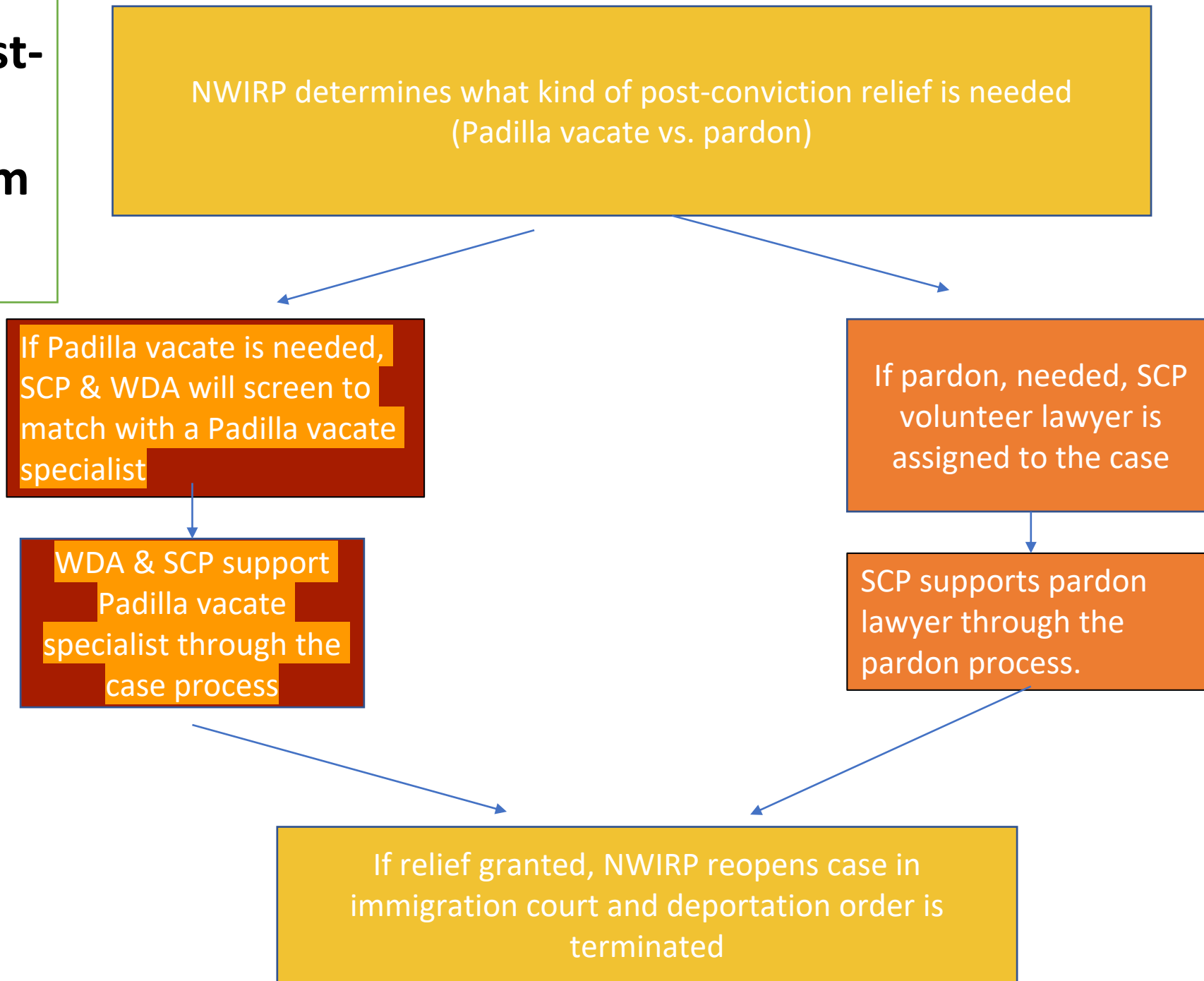
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Red WDA
 Orange SCP
 Blue OPD

Redemption Project of Washington Flowchart

Immigrant Post-Conviction Relief Program Flowchart



Red

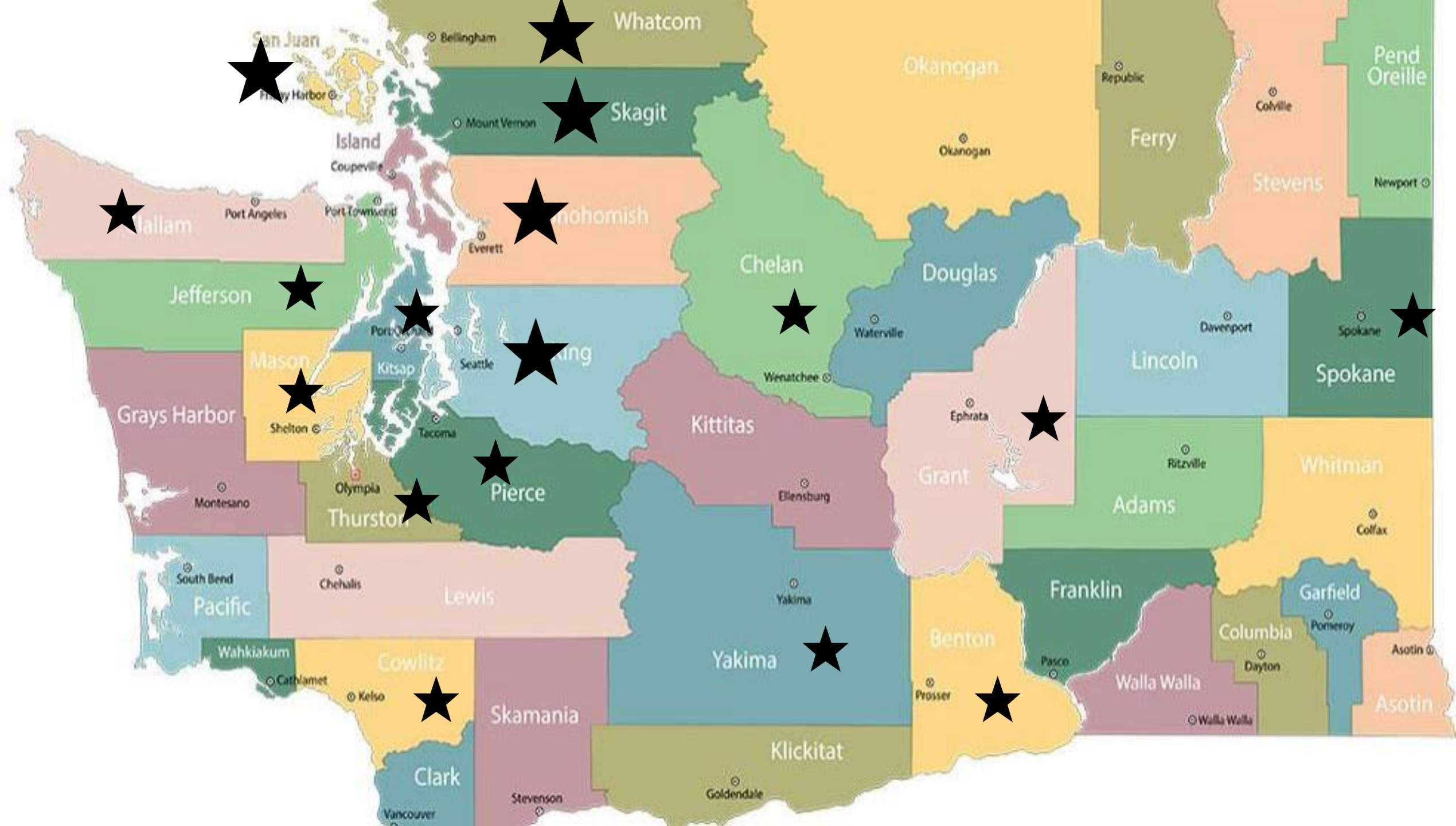
Orange

Yellow

WDA

SCP

NWIRP



Support Trial Level Defenders

- Individualized case support
- Reporting on statewide results in re-sentencing cases
- Building collective defender action in resentencing cases
- Brief bank
- Training by people with lived experience serving life sentences
- Collecting data from defenders about what resources are needed to do work
- Resentencing and reentry training support

Support Appellate Level Defenders

- Share data about statewide resentencing case outcomes and strategies at trial level to support strategy at appellate level
- Identify resentencing cases from trial level that require special attention on appeal

Redemption Project of Washington

Support Incarcerated Population

- Reception center for people who are seeking post-conviction relief
- Provide legal analysis of eligibility for post-conviction relief
- Connecting people with defender/making case for defender services
- Placing with volunteer attorney only if right to counsel has not attached
- Providing reentry support and transition to ensure long term success

Drive Systemic Change to Abolish Life and Long sentences

- Work with UW & SU partners to apply academic research to defender work
- Bring people who have lived through life and long sentence together with criminal legal system leaders to educate and guide work on current cases
- Report on community benefits from early release mechanisms - \$ saved, families reunited, years of incarceration saved, etc.
- Report on the stories of redemption and community healing as clients come home
- Work with national second chances network to strategically maximize all early release mechanisms in Washington
- Use data collection and academic reporting from RPW to assist defenders in seeking additional funding for post-conviction work at trial and appellate levels



Redemption Project Washington

Redeeming Systems and Transforming Futures

Who We Are

Redemption Project of Washington is a partnership between Washington Defender Association, Seattle Clemency Project, with support from the Office of Public Defense to increase access to counsel and reentry support in post-conviction cases.

The collaboration was formed in response to the new pathways for post-conviction relief that have been created by Washington courts and legislature. It is vital that we build a new infrastructure to support defenders and clients to ensure our clients, who have borne the brunt of mass incarceration, get meaningful review and have support to transition back home.

Our Values

We believe that connecting and supporting defenders statewide through research and writing support, trainings, statewide case outcome tracking, and individualized case support, will create the conditions for defenders to do their best work, will result in better and more equitable outcomes across the state, and will create a powerful defender collective that serves their clients who have borne the brunt of mass incarceration.

We believe that reentry and transition support pre and post-release is essential to creating a just outcome in re-sentencing cases for individuals who have served long-term incarceration.

Who We Serve

- People serving time in Washington prisons
- People who are facing deportation due to unconstitutional criminal convictions
- County and state appellate defenders in Washington who are handling re-sentencing cases based on *Domingo-Cornelio & Ali, Haag, Monschke & Bartholomew*
- People who need counsel to support prosecutor initiated re-sentencings
- People who are reentering the community after serving long-term incarceration

Program Benefits and Anticipated Outcomes

- One centralized post-conviction resource center for individuals who are unsure how to get counsel for post-conviction relief;
- A greater number of people in prison will have access to free legal representation for re-sentencing;
- Defender offices across the state will have additional resources and training on how to build a post-conviction case for a client who has served many years in prison;
- A gap will be filled for individuals facing deportation who need access to free counsel to assist with getting their old criminal convictions vacated or pardoned;
- WDA and SCP will take the lead on providing reentry support and transition for clients who win freedom from long sentences to ensure their long-term success;
- The prison community will feel reconnected with the defender community and will know that there are lawyers in the community who want to bring them home; and
- Enormous cost savings from reducing the number of years people are incarcerated in prison, the use of volunteer lawyers in some cases, and reduced recidivism rates by supporting people upon release.



Services For Men and Women Inside Washington Prisons



SCP Board Members and Black Prisoners Caucus Sponsors, Janet Preston and Mark Perry, on their way to a Black Prisoner Caucus meeting at Monroe Reformatory

SCP Board member, Janet Preston at Black Prisoners Caucus meeting at Monroe Reformatory

- The Redemption Project of Washington (“RPW”) will provide access to a post-conviction resource attorney who will review request from individuals in prison to determine their eligibility for re-sentencing relief and connect individuals who are eligible with their defender.
- The RPW will provide quarterly newsletters to people in Washington Prisons with updates about new caselaw that may expand pathways to re-sentencing, trends in re-sentencing outcomes, information on how to access defender support, and general support and encouragement.
- Members of the RPW will attend meetings with people inside at least 4 times per year to complement the information that is disseminated in newsletters. Meetings will consist of updates regarding re-sentencing cases, information about the reentry and transition services the RPW provides and listening to feedback from people inside to give the RPW feedback about what we can do to improve the RPW.
- Members of the RPW will arrange groups of prosecutors, defenders and judges to travel inside the prisons to meet with the Black Prisoners Caucus, Concerned Lifers Organization and other prison groups.



Services for Defenders



- The RPW will provide access to a post-conviction resource attorney who can provide individualized consultation on *Blake*, *Monschke*, *DCA*, *Haag* and *6164* cases by phone and email.
- The RPW will track and maintain case outcome information about *DCA*, *Monschke* and *Haag* re-sentencings statewide and will provide periodic reports to defender offices.
- The RPW will maintain a research and case support database that will include:
 - Sample motions in *Blake*, *DCA*, *Monschke* and *Haag* cases from defenders across the state;
 - Cutting edge research on the harmful impact of mass incarceration has had on individuals, families, the integrity of our criminal legal system with suggestions for how that data connects directly to *DCA*, *Monschke*, *Haag* and *6164* cases; and
 - Training on how to use the American Equity and Justice Group's database (<https://www.americanequity.org>) to support arguments in individual cases.
- The RPW will develop a training manual for re-sentencing cases to support defenders statewide.
- The RPW will provide trainings for defenders on re-sentencing caselaw updates, trends in sentencing outcomes, how to navigate the prison system, building trust with your incarcerated client and reentry planning.
- The RPW will provide access to case development support through assistance with client interviews and mitigation information follow-up.
- The RPW will work to implement a participatory defense model so the community members have more access to the advocacy process.

Reentry and Mentoring Support



Seattle Clemency Project's Mentoring Director, Karlton Daniel (center), after mentoring group session with four men who were freed from life or long sentences

- Plan and execute trainings by individuals with lived experience for defenders on the pre-and post-release transition support that is needed in re-sentencing cases.
- Work with county defenders and OPD to determine what additional infrastructure defender offices need to support reentry and transition work with defenders to plan budgets and lobby for the resources they need.
- Build a central hub to bridge community resources for defenders to access services for individual clients for reentry and transition support.
- Draft a training manual to support lawyers and reentry partners.
- Support individuals who have transitioned back to the community through mentoring group support and community building.

Relief from Unconstitutional Convictions



Sokhan Chea with his family after successful hearing vacating his unconstitutional conviction with assistance from pro bono counsel from Perkins Coie.



Saray Phin testifying in support of an immigration reform bill in Washington D.C. With assistance from a volunteer lawyer, Saray was relieved from deportation due to a successful vacation of a criminal conviction.

- The RPW will utilize the existing relationships the Seattle Clemency Project has built with 37 law firms and corporations in Washington to train a fleet of volunteer lawyers to represent individuals who need relief from unconstitutional drug possession convictions and convictions where they were misinformed about the deportation consequences.
- The RPW will have volunteer lawyer training manuals to support the work of volunteer lawyers, incorporating the expertise WDA has built in the intersection between immigration and criminal law for the past 20 years.
- The RPW will provide individualized and ongoing case support to volunteer lawyers who are handling cases.
- The RPW will maintain a partnership with the Northwest Immigrant Rights Project to ensure individuals who are facing deportation have counsel assigned to reopen their case in immigration court after a successful vacation in criminal court.