

Washington State Judicial Branch

2027-29 Biennial Budget

RCW 10.101 Grant Funding for Counties and Cities

Agency: Office of Public Defense

Decision Package Code/Title: P3 – RCW 10.101 Grant Funding Increase

Agency Recommendation Summary Text:

The Office of Public Defense (OPD) requests pass-through funding to help local governments address a statewide shortage of public defense attorneys and implement Supreme Court-ordered caseload standards. Pursuant to Chapter 10.101 RCW, OPD provides formula grants to all counties and competitive grants to selected cities for the purpose of improving trial-level criminal public defense. Following a modest one-time increase in the 2025-27 biennium, legislative appropriations still cover only about 5 percent of total costs. This decision package adjusts the total ongoing state contribution to roughly 20 percent of the statewide cost for trial level criminal defense. In addition to boosting cash grants to local governments, the request supports enhanced grant management and accountability activities at OPD. (General Fund – State)

Fiscal Summary:

	FY 2028	FY 2029	Biennial	FY 2030	FY 2031	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$43,885,000	\$43,885,000	\$87,770,000	\$43,885,000	\$43,885,000	\$87,770,000
Total Expenditures						
	\$43,885,000	\$43,885,000	\$87,770,000	\$43,885,000	\$43,885,000	\$87,770,000

Package Description:

Background:

While Washington State fully funds and administers some specialized areas of public defense,¹ county and city governments administer and fund the largest volume of public defense services statewide, including nearly all indigent defense representation in 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). Approximately ten percent of appropriated funds are allocated to cities through a competitive grant process. Ninety percent of funds 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.

During the 2025-27 biennium, funding levels increased on a one-time basis to approximately \$13.6 million dollars annually, which is roughly double the amount of distributions since the program's inception. Despite this welcome increase, the carryforward funding level remains at \$6.865 million per year, which pales in comparison to other states' share of funding and the needs of local jurisdictions. Washington is in the minority among states and is one of only 13

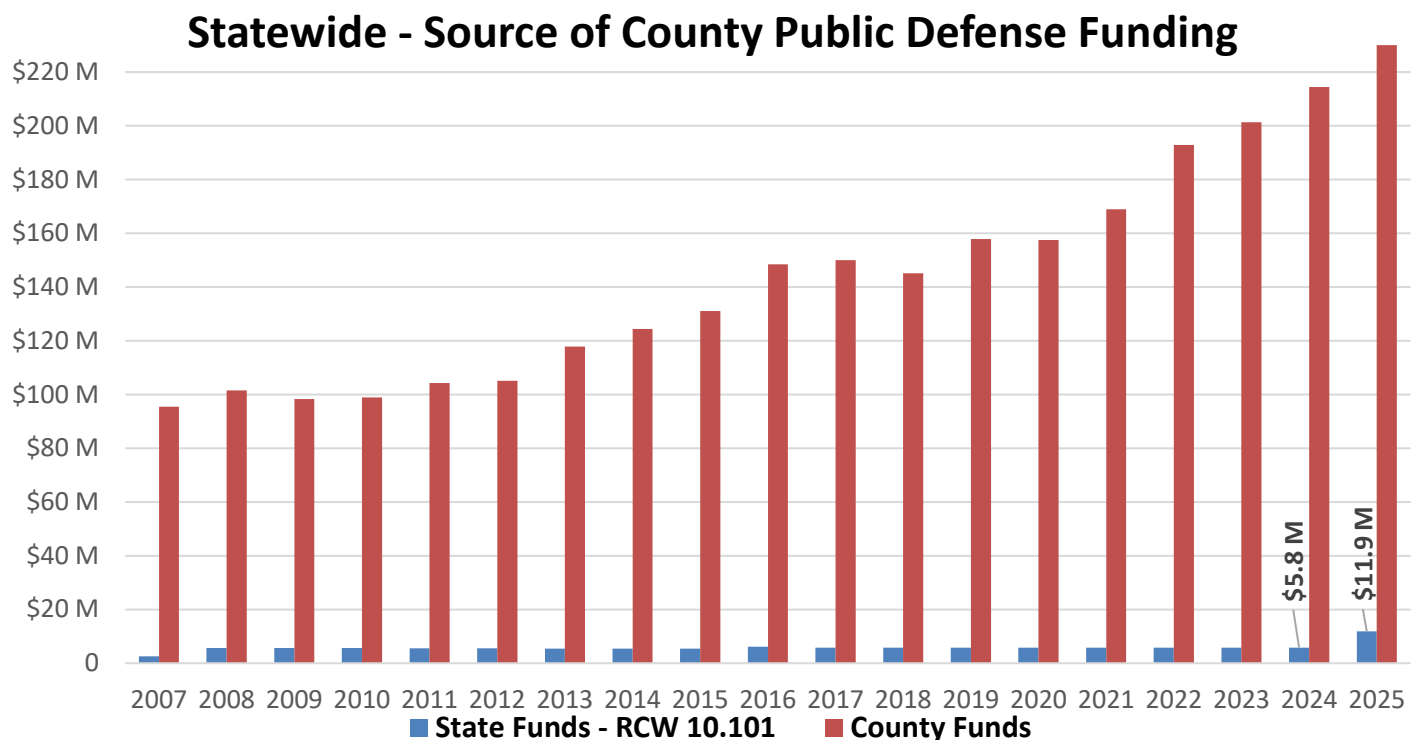
¹ Statutes direct OPD to administer public defense services statewide for indigent appeals, dependency and termination cases, persons who are civilly committed as not guilty by reason of insanity (NGRI), persons facing civil commitment under RCW 71.09, youth access to counsel, certain Involuntary Treatment Act cases, and some personal restraint petitions. See [RCW 2.70.020](#).

states that provide either no or minimal state funding for criminal public defense. Over the past two decades, public defense costs have risen rapidly and are expected to rise at a sharper rate in the upcoming years due to new public defense standards promulgated by the Washington State Bar Association (WSBA) and the Washington Supreme Court.² Some estimates suggest that costs will triple statewide in the next decade.³ More defense attorneys will be needed in order to meet caseload standards while local jurisdictions remain limited in the amount of revenue they can raise through their taxing authority. The state must step in in a substantial way to ensure constitutionally sufficient public defense.

Current Situation:

County- and city-administered public defense systems are in distress. Current levels of state funding—even considering the recent increase—do not adequately address the increased costs of trial-level criminal public defense.

Rising costs are attributable to multiple factors, such as more complex cases, the implementation of mandatory attorney caseload standards, rising business costs for contracted providers, rising cost of living, and in many counties outside the Puget Sound metro area a scarcity of qualified criminal defense attorneys. Counties report spending a combined total of \$240,533,481 on local public defense services in calendar year 2025.⁴ State funds distributed through the existing Chapter 10.101 RCW grant program account for about 5 percent of county public defense expenditures. The chart below shows the comparison between state RCW 10.101 funds distributed to counties in blue, and counties' public defense expenditures in red.



² See, e.g.: Emily Hanson, Public defender services to rise, Peninsula Daily News, March 30, 2026, available at: [Public defender services to rise | Peninsula Daily News](#)

³ See, e.g.: Melissa Santos, Washington counties warn public defense system nears breaking point, Axios, March 17, 2026, available at: [Washington lawmakers drop public defense funding from millionaires' tax - Axios Seattle](#)

⁴ Counties report to OPD their previous year's costs in their annual application for grant funding under Chapter 10.101 RCW.

Similar data is not available for city public defense expenditures statewide, because cities are not required to report expenditure data to OPD unless they apply for a limited competitive grant program. Only about 40 cities participate each year, with periodic turnover among the applicants and variation in the city grant awards.

“Justice by geography” remains a persistent problem for trial-level criminal public defense in Washington. Some jurisdictions routinely provide professional management, supervision, training, and backup support to ensure quality representation. Other local governments, however, lack the resources and internal expertise to deliver public defense consistent with state and national standards. OPD hopes to partner and engage with under-resourced jurisdictions to help them professionalize structures and monitor defense performance to ensure quality representation for all public defense clients.

Proposed Solution:

As the state agency that already administers public defense improvement grants to counties and cities under Chapter 10.101 RCW, OPD is in the best position to distribute increased funds to local jurisdictions to help address growing costs and an attorney shortage, and to improve defense services across the state.

OPD proposes that RCW 10.101 funding be meaningfully increased so that counties and cities can effectively address rising costs with a proven grant program. This decision package allows OPD to implement increased grant funding through its existing program structure with some additional administrative resources to bolster accountability, to ensure that state funds are properly used to enhance and sustain criminal public defense services in the trial courts.

Fully describe and quantify expected impacts on state residents.

In 2025, approximately 31,834 criminal cases were filed in superior court statewide.⁵ The number is exponentially higher when including misdemeanor cases in courts of limited jurisdiction. Each defendant has a constitutional right to counsel and while there is no precise statewide data identifying the exact number of cases on which public defenders are assigned, estimates are that about 90 percent of cases require a public defender. The people charged represent just a fraction of the people who are impacted in each of these cases. Ensuring that public defense is appropriately funded and resourced has a ripple effect on the entire court system.

Research shows that case outcomes are significantly impacted by the quality of public defense delivered. A 2025 study conducted by evaluating data from two separate states found that when an attorney’s caseload increases, their clients face an increase in the mean prison sentence.⁶ There was also suggestive evidence that higher caseloads made a conviction more likely in the first place. Researchers opined that this was due to the observed triage behavior—that with too high of a caseload the attorneys spent less time on each case in general, less time per task, and specifically would fail to review discovery and conduct legal research under higher caseloads.

Another recent study connected high attorney caseloads and public defense support staff caseloads with an increased likelihood of pretrial detention and longer sentences for those incarcerated after a conviction.⁷ In other words, there is evidence that providing more funds to public defense to support caseload reductions for attorneys and support staff will decrease length of incarceration and chances of pretrial detention. This saves the state money on incarceration in the

⁵ See [Washington State Courts - Caseloads of the Courts](#) and [Data Dashboard - King County, Washington](#)

⁶ See Lui, Zhihan et. al. “The impact of working conditions on productivity: Evidence from the U.S. public defense system.” In *The Journal of Public Economics*. May 2026 available at: [The impact of working conditions on productivity: Evidence from the U.S. public defense system - ScienceDirect](#)

⁷ See Gottlieb, Aaron et. al. “The Effect of Public Defender and Support Staff Caseloads on Incarceration Outcomes for Felony Defendants.” In *the Journal of the Society for Social Work and Research*, Volume 12, No 3 (July 2021) available at: [The Effect of Public Defender and Support Staff Caseloads on Incarceration Outcomes for Felony Defendants | Journal of the Society for Social Work and Research: Vol 12, No 3](#)

long run and ensures that residents charged with a crime have access to defenders who can get them the best outcomes available—preserving their employment, housing, and other opportunities and resources that can be lost through unnecessary incarceration.

Explain what alternatives were explored by the agency and why this was the best option chosen.

Previous funding proposals, such as revenue earmarked in an early version of the millionaires’ tax (SB 6346), would have appropriated state funding directly to local government without the benefit of grant management and oversight. OPD believes this decision package is the best option to increase state funding for public defense while also ensuring that the money is used to improve and sustain public defense services and not simply to offset other costs.

What are the consequences of not funding this request?

When trial-level public defense is not sufficiently funded, some local residents accused of crimes do not have access to the attorneys that the Constitution requires and the justice system does not function as intended.

System actors assign a range of consequences to a system that lacks sufficient public defenders. Prosecutors assert that important cases are already not being filed due to a lack of defenders.⁸ They also assert that cases will be dismissed if sufficient public defense attorneys are not available,⁹ as has been a persistent and widespread problem in Oregon. Most system actors are in agreement that failure to increase public defense funding could result in case delays, dropped charges, or other critical case related decisions, such as release of defendants, because of a lack of attorneys.¹⁰

Studies show that a public defense system where caseloads are too high produces unjust outcomes for those charged with crimes, and reduced caseloads have been shown to reduce incidences of pretrial incarceration and sentence length.¹¹ They show that public defenders cannot complete necessary case-related tasks when caseloads are too high—such as researching legal issues and fully reviewing discovery.

Not funding public defense services presents a risk to the court system’s ability to function and its ability to ensure that it functions in a way that provides justice to all those involved.

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

This decision package increases funding and OPD grant management for the existing Chapter 10.101 RCW grant program.

Decision Package expenditure, FTE and revenue assumptions:

This decision package increases the county and city RCW 10.101 grants to approximately \$50 million per year from the carryforward level of \$6.865 million per year and allocates approximately 1.5 percent to improve grant oversight investments and accountability measures at OPD. These include grant management software, data research and analysis, and technical assistance to help counties and cities effectively implement public defense standards and structures.

⁸ See, e.g., Kelsey Turner, *Spokane Prosecutors are suddenly declining to charge more felony domestic violence cases, citing staffing issues*, The Associated Press, June 23, 2026, available at: [Spokane prosecutors are declining to charge more felony domestic violence cases | AP News](#).

⁹ See Emily Hanson, *Prosecuting attorney discusses challenges*, The Peninsula Daily News, May 16, 2026, available at: [Prosecuting attorney discusses challenges | Peninsula Daily News](#)

¹⁰ See Santos, Washington counties warn of mounting public defense crisis FN3.

¹¹ See FN 6 and FN 7

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

Fair and Effective Administration of Justice

Providing well-resourced, prepared, and trained public defenders helps move courtroom proceedings along effectively while ensuring that individuals' rights are upheld. Public defenders with reasonable caseloads are able to stay on top of their work and ensure that they are prepared to help move cases efficiently through the system. Where there are not enough public defenders to represent those accused of crimes, court proceedings cannot move forward and the system grinds to a halt.

Accessibility

In some jurisdictions experiencing public defense shortages, people facing charges who are not held in custody have to come back to court multiple times for their arraignment hearings until an attorney is available to represent them in their case. This exacerbates accessibility issues for those who are juggling everyday responsibilities of jobs and families. Additionally, hearings that could have happened once are reset many times, which clogs up the system and makes it less accessible for others needing to use the courts.

Access to Necessary Representation

Ensuring access to constitutionally required representation is at the heart of this decision package. Increasing state funding to local jurisdictions helps ensure that public defenders are available to provide constitutionally required representation.

Commitment to Effective Court Management

This decision package supports effective court management by ensuring enough public defenders to assign to criminal defendants who have a right to counsel and cannot afford to hire an attorney.

Sufficient Staffing and Support

This decision package includes grant funding and technical assistance to help local jurisdictions implement applicable public defense standards, including standards related to public defense office staff such as legal assistants, paralegals, investigators and social service workers.

How does the package impact equity in the state?

Address any target populations or communities that will benefit from this proposal.

Most directly, increasing public defense funding is a benefit to those who have a right to counsel and are unable to afford an attorney. Statistics show that people of color are more likely to be charged with a crime, so the support will assist those who are most marginalized. However, a well-run and effective public defense system helps everyone who interacts with the court systems—from legal and law enforcement professionals to complaining witnesses to civilian witnesses to judges.

Describe how the agency conducted community outreach and engagement.

OPD engaged with local elected officials, judicial officers, and county and city managers as well as public defense directors, their staff, and contracted counsel. These partners expressed general support for this decision package, though many believe it falls short of the need.

Consider which target populations or communities would be disproportionately impacted by this proposal.

Explain why and how these equity impacts will be mitigated.

Not applicable.

Are there impacts to other governmental entities?

Yes, this decision package relieves some of the burden faced by local governments.

Stakeholder response:

At its September 17, 2026, meeting, the OPD Advisory Committee voted to endorse this decision package.

OPD has worked closely with public defense-oriented stakeholders and county and city partners in consideration of this decision package for increased grant funding under Chapter 10.101 RCW. The WSBA's Council on Public Defense (CPD) generally has agreed to support the funding request although they would prefer it to be at a higher level. The Washington Defender Association (WDA) responded similarly. Individual leaders from county public defense agencies are also supportive of increased public defense funding from the state.

County partners—primarily represented through the Washington State Association of Counties (WSAC) — identify state support for public defense as a top legislative priority. The same is true for the Association of Washington Cities (AWC), though cities would like to receive a larger percentage of available funding. WSAC agrees that an increase to about \$50 million per year is consistent with their cost estimates for implementing caseload standards in the 2027-29 biennium.

All stakeholders agree that the state must contribute more to public defense funding.

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

Court Rules CrR 3.1, JuCr 9.2 and CrRLJ 3.1 set the minimum standards for public defense services and require that within 10 years criminal caseloads be reduced to 47 felony assignments (down from 150) and 120 misdemeanor assignments (down from 350 or 400 depending on case-weighting). This decision package helps local governments implement these mandatory caseload standards.

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?

See materials linked in the footnotes above.

Are there information technology impacts?

No.

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