



Office of Public Defense Sunset Review

Proposed Final Report
 Joint Legislative Audit & Review Committee
 January 9, 2008
 Fara Daun



What is the Guarantee of Counsel?

Background

- A person has the right to representation by counsel if he or she is threatened with the loss of liberty or the loss of parental rights.
 - Criminal prosecution
 - Civil commitment for involuntary treatment
 - Civil proceedings related to child dependency and termination of parental rights
- When a person is indigent, the court must appoint a defense attorney at public expense.

What is the Office of Public Defense (OPD)?



Background

- Created in 1996 as an independent agency of the judicial branch of government
- Purpose is two-fold:
 - to implement the constitutional guarantee of counsel; and
 - to ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington.

RCW 2.70.005

The Legislature has Expanded OPD's Duties into New Areas



Main OPD Duty Areas

Original duty:

- Providing for representation of indigent defendants on appeal

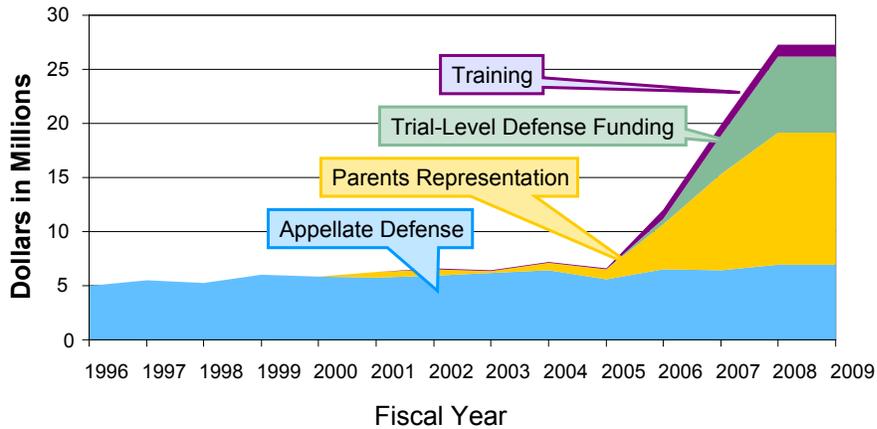
New duties related to overall purpose:

- Providing for representation of parents in dependency and termination proceedings
- Training public defenders
- Trial-Level Programs
 - Prioritizing counties' extraordinary criminal defense costs for legislative consideration
 - Consultation to counties for improving public defense
 - Grants and Pilot Programs

OPD's Funding Has Increased as Its Duties Have Expanded



Background



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Purpose of the Sunset Review



What is a Sunset Review?

Provide the Legislature with a report that:

- Evaluates the continued need for an authorized program or agency to exist
- Independently assesses agency effectiveness and performance over time
- Recommends whether OPD should be:
 - (1) retained as is;
 - (2) modified; or
 - (3) allowed to sunset **June 30, 2008**

Absent specific action by the Legislature, OPD will cease to exist on June 30, 2008.

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Scope of the Evaluation



What is a Sunset Review?

The Sunset Review answers four questions

To what degree is OPD:

1. Complying with legislative intent?
2. Operating in an efficient and economical manner, with adequate controls in place?
3. Reaching expected performance goals and targets?
4. Duplicating activities performed by another agency or the private sector?

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Findings & Conclusions



Sunset Review Results

- OPD meets legislative intent, operates in an efficient and economical manner, with adequate cost controls in place, meets established goals and targets, and does not substantially duplicate services.
- Termination of OPD would have substantial and wide-reaching ramifications on the court system in Washington State.
- The right to counsel is a constitutional right, and provision of counsel for indigent defendants is a government responsibility.

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Recommendation



Sunset Review Results

The Legislature should repeal the Sunset provision and permit the Office of Public Defense to continue without substantive modification.

OPD, OFM and the Chief Justice of the Washington State Supreme Court concur

Contact Information



Fara Daun
360-786-5174
daun.f@leg.wa.gov
www.jlarc.leg.wa.gov