

**OFFICE OF PUBLIC  
DEFENSE SUNSET REVIEW  
PROPOSED REPORT**

JANUARY 9, 2008



STATE OF WASHINGTON  
JOINT LEGISLATIVE AUDIT AND REVIEW  
COMMITTEE

**STUDY TEAM**  
Fara Daun

**PROJECT SUPERVISOR**  
Keenan Konopaski

**LEGISLATIVE AUDITOR**  
Ruta Fanning

Copies of Final reports and Digests are  
available on the JLARC website at:

**[www.jlarc.leg.wa.gov](http://www.jlarc.leg.wa.gov)**

or contact

Joint Legislative Audit & Review Committee  
506 16<sup>th</sup> Avenue SE  
Olympia, WA 98501-2323  
(360) 786-5171  
(360) 786-5180 FAX

# Report Summary

## The Office of Public Defense

In Washington, individuals are guaranteed the right to be represented by an attorney when they are threatened with loss of liberty or when their children may be taken from them. When a defendant is indigent, or too poor to hire a lawyer, he or she is eligible for a court appointed defense attorney at government expense.

The Office of Public Defense (OPD) was established in 1996 by Substitute Senate Bill 6189 as an independent agency within the judiciary branch with a dual purpose. The Legislature directed OPD to “implement the constitutional guarantee of counsel” and “ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington” (RCW 2.70.005).

Initially, OPD’s duties related exclusively to the second, more specific duty, ensuring the effective and efficient delivery of indigent defense services for appeals, and OPD had no duties related to defendants’ trials. Beginning in 2001, the Legislature has progressively expanded the duties of OPD. These expansions relate to the first, more general duty, to “implement the constitutional guarantee of counsel.”

Currently, OPD has duties in six areas:

1. Operating a program that contracts for state funded appellate indigent defense in all 39 counties;
2. Operating a Parents’ Representation Program that contracts for defense counsel for parents in a dependency proceeding or termination of parental rights proceeding in 25 of the 39 counties;
3. Providing continuing education and training for public defenders;
4. Compiling and prioritizing counties’ extraordinary criminal justice costs and reporting these annually to the Legislature;
5. Consulting with counties to assist them with improving their indigent defense; and
6. Operating a grant program that assists counties and cities with meeting standards or improving indigent defense outcomes.

## **OPD is Scheduled to Sunset**

The Office of Public Defense is scheduled to terminate on June 30, 2008, pursuant to the Washington Sunset Act (RCW 43.131.389 to 43.131.390). As required by this legislation, JLARC conducted a sunset review to assist policymakers with deciding whether the Office should be continued, modified, or terminated.

## **Results of JLARC's Sunset Review**

As a result of its sunset review, JLARC finds that OPD is substantially:

- Meeting legislative intent, as expressed in statute and budget provisos;
- Operating in an efficient and economical manner, with adequate cost controls in place;
- Meeting its performance goals and targets as identified in the 2001 pre-sunset plan, and is evaluating its performance in areas of responsibility established since 2001; and
- Not duplicating services provided by other agencies or the private sector.

## **JLARC Recommendation**

The Legislature should repeal the Sunset provision and permit OPD to continue without substantive modification.

- Absent specific action by the Legislature, the Office of Public Defense will cease to exist on June 30, 2008.
- The state would continue to have an obligation for the Constitutional guarantee of counsel, even if the Office of Public Defense were terminated.