



WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE

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February 24, 2009

The Honorable Margarita Prentice
Chair, Senate Ways and Means Committee
Washington State Senate
P.O. Box 40411
Olympia, WA 98504-0411

The Honorable Kelli Linville
Chair, House of Representatives Ways and Means Committee
Washington State House of Representatives
P.O. Box 40600
Olympia, WA 98504-0600

Dear Senator Prentice and Representative Linville:

In accordance with the Extraordinary Criminal Justice Costs Act, the Washington State Office of Public Defense (OPD) has evaluated the counties' 2008 petitions for state reimbursement of costs incurred in aggravated murder cases. First, as required by the statute, OPD audited the veracity of the petitions. OPD disallowed undocumented expenses that were claimed in the petitions. The petitions were then prioritized in consultation with the Washington Association of Prosecuting Attorneys (WAPA), and the Washington Association of Sheriffs and Police Chiefs (WASPC). This year, the list includes claims by Franklin, King, Skagit, Spokane and Yakima Counties.

The statute names three factors for reimbursement consideration: disproportionate fiscal impact relative to the county criminal justice budget, efficient use of resources, and whether the costs were extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

The attached 2008 Extraordinary Criminal Justice Costs Act list shows the claimed aggravated murder cases' impact on the counties' budgets. The impact is derived by dividing the cost of the claimed cases by the county's criminal justice budget. Factors that make these costs extraordinary and prevent them from being "reasonably accommodated and anticipated in the normal budget process" are specific to the individual circumstances of each case and to the counties in which they arose. Each county articulated measures showing efficient use of resources and reasons that the case costs were difficult to accommodate and anticipate in the normal budget process.



A summary of the five counties' claims is as follows:

Franklin County

Number of 2008 cases claimed: 1
Total amount claimed: \$126,832
Amount supported by documentation: \$126,832

Extraordinary Nature of Costs – Franklin County reports:

“This case began in 1987 and the defendant fled the country to avoid prosecution. The defendant’s whereabouts were unknown until he was extradited in June 2007.”

Efficiencies – Franklin County

“The costs are court ordered per Exhibit “A” Order Appointing Counsel and Setting Compensation.”

King County

Number of 2008 cases claimed: 8
Total amount claimed: \$2,839,180
Amount supported by documentation: \$2,817,450

Extraordinary Nature of Costs – King County reports:

“King County continues to experience the financial strains of numerous and increasingly complex aggravated murder cases. This year’s claim includes eight.

Aggravated murder cases are among the most complicated and time consuming types of cases, given the severity of the offense and the potential severity of the sentence. As King County sees more of these cases over time, strains are placed on components of the King County criminal justice system. For instance, all inmates charged with aggravated murder are classified in the jail as “ultra security” inmates, requiring specialized and more intense supervision. They also generally spend more time in the facility than other inmates.

Aggravated murder cases require more public defense resources than standard felony cases. King County is required by Supreme Court rule and by contract to provide two attorneys for aggravated murder cases. However, many of these cases take years to complete and require additional attorneys.

This year, King County incurred these costs at the same time it is dealing with an unprecedented fiscal crisis. Between 2002 and 2005, King County identified \$137 million in expenditure reductions and enhanced revenues to close budget deficits in the General Fund. In the 2009 Adopted Budget, King County identified additional expenditure reductions and revenue enhancements to close an unprecedented one-year \$93.4 million deficit. The legal and financial obligations associated with the proliferation of these aggravated murder cases significantly impacts King County’s ability to provide other public services.”

Efficiencies – King County reports:

“King County has a number of mechanisms in place to efficiently manage the costs of aggravated murder cases. Within the court system, all cases are pre-assigned to a judge for the duration of the case. This method of case assignment allows for continuity, effective record keeping, and consistent case management. In addition, all ultra security cases, which is the jail classification for all persons charged with aggravated murder, are held at King County’s downtown correctional facility, rather than the more remote Maleng Regional Justice Center (MRJC). This allows the county to maintain one ultra security jail facility and saves the expensive of transport costs between the downtown jail and the MRJC.”

Skagit County

Number of 2008 cases claimed: 1
Total 2008 amount claimed: \$136,266
Amount supported by documentation: \$129,402

Extraordinary Nature of Costs – Skagit County reports:

“Skagit County has never had a murder case of this magnitude; therefore, there is insufficient history for this type of case.”

Efficiencies – Skagit County

“A fiscal judge has been appointed to review and approve costs for the defense; County Public Defenders are representing the defendant instead of contracted outside counsel.”

Spokane County

Number of 2008 cases claimed: 8
Total amount claimed: \$411,562
Amount supported by documentation: \$411,562

Extraordinary Nature of Costs – Spokane County reports:

“Costs for the claimed aggravated murder case(s) could not be reasonably accommodated and anticipated in the normal budget process because: The County does not have sufficient budget to cover these expenses as they were unanticipated.”

Efficiencies – Spokane County

“In 2008, the Superior Court has set up a separate Capital Defense budget (\$250,000) which was established by the Board of County Commissioners and is supplemental funding to the 2008 Criminal Justice Budget, to keep track of the expenses for aggravated murder cases. Further steps are taken in that the County policies and procedures mandate payment of only authorized expenses and then only after review and approval at department level and auditor’s level; independent agreements on counsel and contracts for services are paid only after such services are rendered and after review; and Presiding Judge reviews all invoices to be paid by the court to ensure that the expenses are within the hourly guidelines set up upon appointment and that the travel expenses are within the guidelines established by the County and/or Federal travel guidelines.”

Yakima County

Number of 2008 cases claimed: 2

Total amount claimed: \$166,913

Amount supported by documentation: \$166,913

Extraordinary Nature of Costs – Yakima County reports:

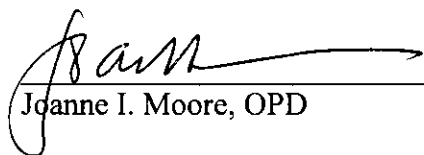
“Cases are death penalty related cases. Death penalty was withdrawn after an extended period of time. Sanchez ultimately was convicted in November 2007 and the Mendez case was sentenced after entering a plea. All case information is under seal; both cases have appeals pending at this time.”

Efficiencies – Yakima County

“A fiscal Judge was appointed to handle funding requests on the two cases. The Administrator was asked to receive all funding orders, review with the Judge, coordinate with counsel and act as the judicial liaison between the Judges and counsel regarding ongoing fiscal issues, track all costs and prepare all cost bills as appropriate. Such coordination has included many hours of meetings and/or telephone or email contact with counsel and expert witnesses.”

The 2008 Extraordinary Criminal Justice Costs List is enclosed. If you have any questions or need more information, please contact Joanne Moore at 360-586-3164, ext. 112.

Sincerely,



Joanne I. Moore, OPD



Tom McBride, WAPA



Don Pierce, WASPC

**Extraordinary Criminal Justice Costs Act
2008 Prioritized List**

Year Impact	County	Adjusted Claim Total	Criminal Justice Budget	Budget Impact
2008	Franklin	\$126,832	\$15,460,040	.82%
2008	King	\$2,817,450	\$510,420,616	.55%
2008	Skagit	\$129,402	\$30,435,657	.43%
2008	Spokane	\$411,562	\$111,999,517	.37%
2008	Yakima	\$166,913	\$41,512,761	.4%