



**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

January 26, 2001

Honorable Lisa Brown, Chair
Ways and Means Committee
Washington State Senate
PO Box 40482
Olympia, WA 98504-0482

Honorable Barry Sehlin, Co-chair
Appropriations Committee
House of Representatives
PO Box 40600
Olympia, WA 98504-0600

Honorable Helen Sommers, Co-chair
Appropriations Committee
House of Representatives
PO Box 40600
Olympia, WA 98504-0600

Dear Senator Brown, Representative Sehlin, and Representative Sommers:

Pursuant to the Extraordinary Criminal Justice Costs Act, enclosed is the 2001 prioritized list of counties that submitted petitions for reimbursement of costs incurred in adjudicating aggravated murder cases.

In September, the Washington State Office of Public defense distributed Extraordinary Criminal Justice Costs petitions to all counties. Seven counties completed petitions to seek reimbursement of their aggravated murder case expenses. OPD reviewed and audited the claims, then met with the Washington Association of Prosecuting Attorneys (WAPA) and the Washington Association of Sheriffs and Police Chiefs (WASPC) to prioritize them. This letter reports our findings.

Review Process. The county petitions were submitted in early December, but because many were incomplete or involved litigation ongoing in December, OPD extended the deadline to January 8th so the full year's costs could be included. OPD reviewed the documentation attached to each petition. The information included with the petition was generally adequate for verification purposes. Prior to this year's review process, OPD developed new procedures to ensure that counties can protect sensitive or confidential information about ongoing litigation and still provide sufficient details to meet the verification requirements of the statute.

Prioritizing the Petitions. The 2000 petitions were prioritized based on the factors listed in the statute: disproportionate fiscal impact relative to the county budget, efficient use of resources, and whether the costs were extraordinary and could not be reasonably accommodated. The prioritized list is attached.

Disproportionate Fiscal Impact Relative to the County Budget. This factor addresses the difficulty faced by counties when the costs of investigating, preparing and trying the most serious criminal cases competes with the necessity of providing essential services to county residents. The most direct measure of this impact on county finances is the percentage relationship between the accumulated costs of these cases and the current county budget as a whole. All the counties' petitions listed total expenses that had a significant, disproportionate fiscal impact relative to the county budget. The county claims are set forth in the prioritized list in the order of the proportional magnitude of their claims. However, the impacts to all these counties were substantial, and all the counties' claims totaled over .4% of their current expense budgets.

Efficient Use of Resources. The statute establishes that the counties' efficient use of resources should be considered in prioritizing the petitions. All the applying counties described steps they took to efficiently manage resources. For example, Franklin, Cowlitz, and Skagit counties made estimated fee arrangements with defense attorneys rather than simple hourly fee arrangements. In Yakima, Seattle-area certified death penalty counsel were appointed at the beginning of the case but replaced with the local public defender after the decision was made not to seek the death penalty. The Thurston County public defender reviewed all defense bills before they were paid. Klickitat County carefully minimized travel costs, copying, and photograph reproduction costs, and contracted with a part-time prosecutor to handle its two aggravated murder cases. Spokane effectively used the task force format to centralize investigation.

Extraordinary Nature of Costs. This factor focuses on the particulars of the case and the county in which it is located. Spokane reported extremely costly DNA analyses, multiple deaths and a coordinated investigation involving the County Sheriff, municipal police agencies and the Washington State Patrol for the Yates case. The complexity of this serial murder case could not have been anticipated at the time the investigation began. Thurston and Franklin Counties claimed costs for Rupe and Yates, cases that have very high aggregate costs and many complicating factors. Franklin, Cowlitz, Klickitat, Yakima, and Skagit Counties each had little, if any, past experience with the total number of aggravated murder cases each experienced in 2000.

Other Budget Factors Relating to the Claims. Two of the counties that received partial reimbursement last year for 1999 aggravated murder cases requested that the Legislature consider adding the unreimbursed portion of their 1999 claim to their 2000 claim. These requests for unreimbursed 1999 claims by Thurston and Franklin Counties are noted on the prioritized list.

In January, Spokane County advised us that it has been awarded a federal Byrne grant for the Yates investigation. The county's costs for the Yates case exceeded the grant amount for county expenses by \$442,832. In addition to Yates costs, Spokane County's Extraordinary Justice Costs Act petition included a claim of \$37,896 for the Goldberg case. As noted on the prioritized list, the total costs remaining after the Byrne grant award are \$480,728.

All the County Claims Appear to be Appropriate. This year, all the counties' claims appeared to meet the statutory factors. The costs claimed had a disproportionate fiscal impact relative to the county budget, efforts were made to efficiently use resources, and the costs incurred were extraordinary in nature. The seven county claims are listed on the prioritized list in order of the proportional magnitude of each claim in relation to the county's current expense budget.

2000 Petition Results. Based on all of the data submitted, reviewed and verified, OPD, WAPA and WASPC attach the 2000 Extraordinary Criminal Justice Costs Act list.

Sincerely,

Joanne I. Moore
Director, Washington State Office of Public Defense

Tom McBride
Director, Washington Association of Prosecuting Attorneys

Larry Erickson
Director, Washington Association of Sheriffs and Police
Chiefs

Prioritized List Extraordinary Criminal Justice Costs Act RCW 43.330.190

<u>County</u>	<u>2000 Claim for Reimbursement</u>
Franklin	\$392,554*
Klickitat	\$95,968
Cowlitz	\$213,006
Skagit	\$232,689
Yakima	\$304,250
Thurston	\$301,080**
Spokane	\$480,728***
TOTAL	\$2,020,275

*In addition to its current 2000 reimbursement claim included in the list above, Franklin County requested reconsideration of the portion of its 1999 reimbursement claim not funded last year, which totaled \$61,274.

**In addition to its current 2000 reimbursement claim included in the list above, Thurston County requested reconsideration of the portion of its 1999 reimbursement claim not funded last year, which totaled \$407,295.

***Spokane County's current 2000 reimbursement claim filed in December 2000 totals \$1,737,881. In January, Spokane County filed a letter explaining that the county has been awarded a federal Byrne grant for the purpose of funding ongoing investigations that were not pursued previously because Yates caused the county to prioritize its property crime caseload. Spokane's position is that even if the Byrne grant funds were considered reimbursement for Yates, the remaining unreimbursed amount would be \$442,832. This amount, plus \$37,896 for the separate Goldberg case, make up the total Spokane \$480,728 amount that appears above on the prioritized list.