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**WASHINGTON STATE  
OFFICE OF PUBLIC DEFENSE**

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February 12, 2007

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

The Honorable Helen Sommers  
Chair, Appropriations Committee  
Washington State House of Representatives  
P.O. Box 40600  
Olympia, WA 98504-0600

Dear Senator Prentice and Representative Sommers:

In accordance with the Extraordinary Criminal Justice Costs Act, the Washington State Office of Public Defense (OPD) has processed counties' 2006 petitions for state reimbursement of costs incurred in aggravated murder cases. As a preliminary matter, 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 forwarded to the Washington Association of Sheriffs and Police Chiefs (WASPC) for consultation. This year, the list includes claims by Yakima, Grant, Kitsap, Mason, and Skagit 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 2006 Extraordinary Criminal Justice Costs Act list shows the 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 the cases and the counties in which they arise. Each county articulated measures showing efficient use of resources and the reasons the case costs were difficult to accommodate and anticipate in the normal budget process. The counties’ comments regarding these extraordinary budget impacts are summarized below.

### **Yakima County**

Number of 2006 cases claimed: 4

Number of 2005 cases claimed: 4

Number of 2004 cases claimed: 2

Number of 2003 cases claimed: 1

Total amount claimed: \$2,046,055

Amount supported by documentation: \$2,046,055

#### Extraordinary Nature of Costs – Yakima County reports:

“Yakima County has an increasing history in aggravated murder proceedings. Both 05-1-00459-8 & 05-1-00507-1 murder cases have been ongoing since 2005, and entail complicated & extensive investigatory costs particularly with the mitigation packets required on both cases. The Yakima County Prosecuting Attorney’s office made the charging decision not to seek the death penalty for 05-1-00507-1 on 8-11-2006, and for 05-1-00459-8 on 10-27-2006. The court file and documents are sealed for public view at this time. In addition, in 2006 Yakima County had two other murder trials, 04-1-02219-9 & 01-1-01266-1 that have significantly drained the County’s economic resources.

The 01-1-01266-1 case, although not an aggravated murder charge, resulted in extraordinary criminal justice costs to Yakima County due to the extreme need to prevent the defendant from escaping from custody. The defendant in this case was a known flight risk, and had previously had a history of escaping from several prior detention facilities. The special treatment in the housing, monitoring, and transport of this defendant required significantly large amounts of staff resources, and greatly added to the expenditures of Yakima County. Portions of the record on this case are sealed by court order.”

#### Efficiencies – Yakima County reports:

“To effectively manage case status and fiscal issues, the Court appointed a fiscal judge and a trial judge from the bench on Cases 05-1-00459-8 and 05-1-00507-1. All fiscal requests are reviewed, examined by the fiscal Judge, argued in court as needed, and determined by the fiscal Judge. Yakima County has also instituted a court travel policy relating to appointed counsel and expert witnesses in all case types to assist and facilitate cost management of expenditures. All resultant cost bills are then reviewed by the Court Manager prior to signature and approval of the fiscal Judge before payment processing begins.

Further, Yakima County Superior Court has established payment guidelines for various expert Court services in an attempt to mitigate the costs associated with public funding of indigent defenses.”

### **Grant County**

Number of 2006 cases claimed: 2

Number of 2005 cases claimed: 1

Total amount claimed: \$428,093

Amount supported by documentation: \$387,725

Extraordinary Nature of Costs – Grant County reports:

“The County could not have envisioned complications arising from Mr. Abrams’ choice to represent himself *pro se*, yet working with a court-appointed public defender on his Aggravated Murder charge. As a consequence, an already difficult case immediately became even more challenging. When combined with Mr. Abrams’ accumulation of additional felony and misdemeanor charges from actions while incarcerated at the Grant County Jail, and his aggressive litigation measures, the County has been burdened beyond the norm...

...Actions by Mr. Abrams have affected the County’s insurance rates negatively, as well. In addition to high maintenance and repair costs (which, unfortunately, are not included herein), Mr. Abrams has also placed a number of the County’s employees at risk physically and emotionally with situations that no employee should be expected to cope with.”

...The County has done an exemplary job of working to protect Mr. Abrams’ rights while efficiently managing the costs of his cases. However, the dollar figures as contained within this Petition are only the tip of the iceberg for what Grant County has expended.”

Efficiencies – Grant County reports:

The County’s utilization of qualified, contracted public defenders did much to keep the costs down and, fortunately or unfortunately, extra hours put in by exempt County employees is at “no cost”.

Expenditures on these cases were monitored as closely as possible, and invoices for defense, prosecution, expert witnesses, and special investigations were carefully reviewed and approved of by the elected official for each department and/or the Board of County Commissioners, as applicable. Grant County’s mission statement is to “Provide the Public Safe, Reliable Resource Effective Local Government Services With Integrity”, and the efforts to follow the “resource effective” mission by the County in all aspects of these cases is reflected within this application.”

### **Kitsap County**

Number of 2006 cases claimed: 2

Total amount claimed: \$209,352

Amount supported by documentation: \$209,352

Extraordinary Nature of Costs – Kitsap County reports:

“The 2005-2006 biennial budget was adopted in December 2004. These two aggravated murder cases were not anticipated at the time of budget preparation.”

Efficiencies – Kitsap County reports:

“Invoices for all associated costs are all carefully monitored and audited by department staff and by the County accounts payable staff.”

**Mason County**

Number of 2005 cases claimed: 1

Total amount claimed: \$70,915

Amount supported by documentation: \$115,150

Extraordinary Nature of Costs – Mason County reports:

“Mason County is a small county. Our Board of County Commissioners regularly budget an amount into a reserve fund for murder case costs of \$25,000.00 per year. While this will normally be sufficient for the small number of non-capital homicide cases filed each year, it is not sufficient should a homicide, or in this case a double homicide with the potential of a death penalty request, occur.”

Efficiencies – Mason County reports:

“Steps along these lines are limited due to the constitutional protections afforded a person charged with a crime. In this case, the Court, after contacting other courts who have had recent experience with death penalty cases, negotiated a reasonable hourly rate for defense counsel’s services. Additionally, when asked to approve costs for expert services by persons out-of-state, the Court required that an adequate showing be made that a comparable expert could not be employed within this state.”

**Skagit County**

Number of 2005 cases claimed: 1

Total amount claimed: \$57,275

Amount supported by documentation: \$57,248

Extraordinary Nature of Costs – Skagit County reports:

“There is insufficient history for this type of case in the County. The last aggravated murder case in Skagit County was approximately five years ago.”

Efficiencies – Skagit County reports:

“With the progression of this type of case being dictated by statutes, no extreme steps were taken by the defense or prosecution. The County also contracted with a neighboring county public defender’s office to represent the defendant instead of contracting with a private attorney.”

The 2006 Extraordinary Criminal Justice Costs List is enclosed. The list differentiates the submitted claims by whether they were aggravated murder cases or involved other major charges and by the year in which the costs were incurred.

If OPD can provide any more information, please let me know.

Sincerely,

Joanne I. Moore  
Director

Enclosure

c: Tom McBride, WAPA  
Don Pierce, WASPC

Grant County Legislators:

Senator Janea Holmquist  
Senator Linda Evans Parlette  
Representative Mike Armstrong  
Representative Cary Condotta  
Representative Bill Hinkle  
Representative Judy Warnick

Kitsap County Legislators:

Senator Derek Kilmer  
Senator Phil Rockefeller  
Senator Tim Sheldon  
Representative Sherry Appleton  
Representative William Eickmeyer  
Representative Kathy Haigh  
Representative Patricia Lantz  
Representative Christine Rolfes  
Representative Larry Seaquist

Mason County Legislators:

Senator Tim Sheldon  
Representative William Eickmeyer  
Representative Kathy Haigh

Skagit County Legislators:

Senator Mary Margaret Haugen  
Senator Jeff Morris  
Senator Harriet Spanel  
Senator Val Stevens  
Representative Barbara Bailey  
Representative Dan Kristiansen  
Representative Kirk Pearson  
Representative Dave Quall  
Representative Chris Strow

Yakima County Legislators:

Senator Jim Clements  
Senator Janea Holmquist  
Senator Jim Honeyford  
Representative Bruce Chandler  
Representative Bill Hinkle  
Representative Daniel Newhouse  
Representative Charles Ross  
Representative Mary Skinner  
Representative Judy Warnick

## Extraordinary Criminal Justice Costs Act 2006 Prioritized List

### 2006: AGGRAVATED MURDER CASE COSTS

<u>County</u>	<u>Adjusted Claim</u>	<u>Criminal Justice Budget</u>	<u>Budget Impact</u>
Yakima	1,302,697	50,937,987	2.56%
Grant	101,205	15,058,977	0.67%
Kitsap	209,352	55,255,028	0.38%
<b>1,613,255</b>			

### 2004 and 2005: AGGRAVATED MURDER CASE COSTS

<u>County</u>	<u>Adjusted Claim</u>	<u>Criminal Justice Budget</u>	<u>Budget Impact</u>
Mason 2005	115,150	12,715,188	0.91%
Yakima 2005	404,546	46,520,927	0.87%
2004	3,880	45,608,011	0.01%
Skagit 2005	57,248	25,324,229	0.23%
<b>580,824</b>			

Notes:

1. The list has been prioritized in order of the impact of counties' claimed/forwarded costs on their criminal justice budgets.
2. Budget impacts are rounded to the nearest hundredth.

## Extraordinary Criminal Justice Costs Act 2006 Prioritized List

2006: OTHER MAJOR CRIMINAL CASE COSTS forwarded by counties

<u>County</u>	<u>Adjusted Claim</u>	<u>Criminal Justice Budget</u>	<u>Budget Impact</u>
Grant	286,520	15,058,977	1.90%
Yakima	207,552	50,937,987	0.41%
	<b>494,072</b>		

2003, 2004, and 2005:  
OTHER MAJOR CRIMINAL CASES COSTS forwarded by counties

<u>County</u>	<u>Adjusted Claim</u>	<u>Criminal Justice Budget</u>	<u>Budget Impact</u>
Grant			
2005	228,144	15,346,123	1.49%
2004	211,534	14,787,455	1.43%
Yakima			
2005	214,078	46,520,927	0.46%
2004	207,666	45,608,011	0.46%
2003	72,524	44,278,221	0.16%
	<b>933,946</b>		

Notes:

1. The list has been prioritized in order of the impact of counties' claimed/forwarded costs on their criminal justice budgets.
2. Budget impacts are rounded to the nearest hundredth.