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OFFICE OF PUBLIC DEFENSE**

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January 31, 2017

The Honorable John Braun
Chair, Senate Ways & Means Committee
Washington State Senate
PO Box 40411
Olympia, WA 98504-0411

The Honorable Timm Ormsby
Chair, House of Representatives Appropriations Committee
Washington State House of Representatives
PO Box 40600
Olympia, WA 98504-0600

Re: RCW 43.330.190—Reimbursement for Extraordinary Criminal Justice Costs

Dear Senator Braun and Representative Ormsby:

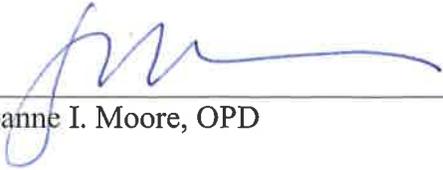
In accordance with the Extraordinary Criminal Justice Costs Act, RCW 43.330.190, the Office of Public Defense (OPD) has evaluated the counties' 2016 petitions for state reimbursement of costs incurred in aggravated murder cases. As required by the statute, OPD audited the veracity of the petitions. The 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 King and Kitsap 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 2016 Extraordinary Criminal Justice Costs Act prioritized list shows the claimed aggravated murder cases' disproportionate impact on the counties' budgets (Attachment A). The impact is derived by dividing the cost of the claimed cases by the county's criminal justice budget. Factors making these costs extraordinary and preventing them from being "reasonably accommodated and anticipated in the normal budget process," as well as factors showing the counties' efficient use of resources, are specific to the circumstances of each case and county. Each county provided statements addressing why the case costs were difficult to accommodate

and anticipate in the normal budget process and listed the measures it took to ensure the efficient use of resources. The counties' statements are included at Attachment B.

Sincerely,



Joanne I. Moore, OPD



Tom McBride, WAPA



Mitch Barker, WASPC

Extraordinary Criminal Justice Costs Act 2015 Prioritized List

County	Year	Verified Claim	Criminal Justice Budget	Budget Impact
Franklin	2016	\$208,158	\$18,668,616	1.1%
Yakima	2016	\$414,723	\$55,449,946	0.7%
Spokane	2016	\$433,963	\$115,747,091	0.4%
Franklin	2015	\$31,774	\$18,144,935	0.2%

Franklin County

Number of 2015 aggravated murder cases claimed: 1
Total 2015 amount supported by documentation: \$31,774
Number of 2016 aggravated murder cases claimed: 1
Total 2016 amount supported by documentation: \$208,158

Extraordinary Nature of Costs—Franklin County reports:

The earlier this year the defendant, Prudencio Juan Fragos-Ramirez was convicted by a jury of shooting his new 17 year old girlfriend and her 3 year old son, and then proceeded to burn the car with the two inside. It was found that the 3 year old child was still alive at the time that the car was set on fire. This defendant was charged and found guilty of two counts of Aggravated Premeditated Murder in the first degree, including firearm enhancements. Because of the severity of the crime this trial was scheduled to be 6 weeks long.

Franklin County does not have an extensive history of aggravated murder cases. Extended and complex criminal matters are as well something the County does not routinely have to deal with. This makes it almost impossible to calculate with any degree of precision potential costs. Initially, our current contracts provided for the provision of necessary investigative and expert witness services. However, it has now necessitated the transfer of substantial funds from other county reserve funds to cover same.

In the past 6 years Franklin County has had an average of 4.5 homicide cases filed each year. None of those cases have been filed with the aggravated enhancement. In 2015 there were 10 homicide cases filed. In the past 5 years leading up to that there were an average of 3.5 homicides filed per year. This drastic increase in homicides has necessitated channeling most of our budget into homicide cases.

Efficient Use of Resources—Franklin County reports:

Franklin County contracts with its qualified homicide attorneys on an individual basis, as well as investigators and interpreters. Each assigned attorney selects and petitions OPD for approval as regards specific expert witnesses or extraordinary expenses associated with trial preparation and trial itself.

Yakima County

Number of 2016 aggravated murder cases claimed: 9
Total 2016 amount supported by documentation: \$414,723

Extraordinary Nature of Costs—Yakima County reports:

Yakima County currently has seven aggravated murder cases pending in its Superior Court. Five of the seven claimed cases carry over from previous years. Three cases, *Gaitan*, *McNeil*, and *Rice*, are aggravated murder cases requiring *Miller* re-sentencings. *Miller* resentencing requires extensive preparation and mitigation investigation similar to death mitigation. The expenditures are also on par with pre-filing death mitigation. The expenses incurred were unexpected due to a significant change in the law.

One case, Condon, is a retrial after mandate from the appellate courts. The original appointed attorney was not available for re-appointment. The expenses were not anticipated after the reversal on appeal.

Two of the seven aggravated murder cases, Verduzco and Rios, occurred in 2016. The Verduzco matter required extensive mitigation work before a "no death" notice was filed in October.

All seven Yakima County aggravated murder cases will continue into 2017. The county has for the third time passed a 3/10ths of a percent sales tax to help fund the county's criminal justice needs. The funding from

that initiative is included in the county's criminal justice budget. The expenses incurred by the cited aggravated murder cases cannot be accommodated with the county's current budget.

Finally, three additional aggravated murder cases are currently in the appellate courts. The Yakima County Prosecutors Office is defending appeals of Ramos, Gallegos and Stafford.

Efficient Use of Resources—Yakima County reports:

Death requests have not been filed. Staff attorneys at the Dept. of Assigned Counsel are used where no conflicts exist. Terms of appointment are tailored to case needs.

Spokane County

Number of 2016 aggravated murder cases claimed: 1

Total 2016 amount by documentation: \$433,963

Extraordinary Nature of Costs—Spokane County reports:

Unusually complicated triple murder trial.

Efficient Use of Resources—Spokane County reports:

The County departments evaluated what was necessary for the case and only spent additional funds where needed. Used County employees for the defense and did not have to hire outside counsel.