



**WASHINGTON STATE  
OFFICE OF PUBLIC DEFENSE**

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February 2, 2011

The Honorable Ed Murray  
Chair, Senate Ways and Means Committee  
Washington State Senate  
PO Box 40411  
Olympia, WA 98504-0411

The Honorable Ross Hunter  
Chair, House of Representatives Ways and Means 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 Murray and Representative Hunter:

In accordance with the Extraordinary Criminal Justice Costs Act, RCW 43.330.19, the Washington State Office of Public Defense (OPD) has evaluated the counties' 2010 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 Franklin, Jefferson, Okanogan, Benton, King, Spokane, Yakima, Clallam, 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 attached 2010 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 nine counties' claims listed alphabetically are as follows:

**Benton County**

Number of 2010 cases claimed: 1  
Amount claimed and documented: \$329,248

Extraordinary Nature of Costs—Benton County reports:

“Highly unusual, highly complex case with national media exposure. Aggravated murder cases are uncommon in Benton County.”

Efficiencies—Benton County reports:

“Detailed audit procedures; careful budgeting in conjunction with trial team; pre-authorization and justification process for all experts and investigators; use of local contracted investigators.”

**Clallam County**

Number of 2010 cases claimed: 1  
Amount claimed and documented: \$131,208

Extraordinary Nature of Costs—Clallam County reports:

“The Washington State Supreme Court transferred two Personal Restraint Petitions stemming from a 1993 case on *State. v. Darold Stenson* to Clallam County for an evidential hearing.”

Efficiencies—Clallam County reports:

- a. The judge had arranged for discovery which included an extensive in camera review by Judge Moreno of Spokane County of approximately 24 boxes of records to determine if information contained in those records was relevant issues in the reference hearings.
- b. All statements for Court appointed counsel were monitored by the court.”
- c. The Federal Public Defender arranged for witness travel to take advantage of their State rate for airfares, whereupon the court reimbursed the Federal Public Defender.

**Franklin County**

Number of 2010 cases claimed: 1  
Amount claimed and documented: \$438,618

Extraordinary Nature of Costs—Franklin County reports:

“Highly unusual case with complex issues, extremely old (incident occurred in the 1980's) and involving witnesses from different countries. Also, aggravated murder cases are not filed often in Franklin County.”

Efficiencies—Franklin County reports:

“Detailed audit procedures; careful budgeting in conjunction with trial team; pre-authorization and justification process for all experts and investigators; use of local contracted investigators.”

**Jefferson County**

Number of 2010 cases claimed: 1

Amount claimed and documented: \$217,915

Extraordinary Nature of Costs—Jefferson County reports:

“There is a lack of history in Jefferson County of aggravated murder proceedings. This proceeding was of unusually long duration for this County. There were unusually complicated investigations pulling in extraordinary investigative units from other areas within Washington State.”

Efficiencies—Jefferson County reports:

“A project tracking code was established for Departments to use to track their time and expense in for this case in one place. All involved departments worked hard to minimize costs while fulfilling their obligations.”

**King County**

Number of 2010 cases claimed: 7

Amount claimed and documented: \$4,155,117

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 included seven cases.

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.

In recent years, King County has incurred these costs while dealing with an unprecedented fiscal crisis. Between 2002 and 2005, King County identified \$137 million in expenditure

reductions and revenue enhancements to close budget deficits in the General Fund. In the 2009 and 2010 Adopted Budget, King County made expenditure reductions and revenue enhancement sufficient to close General Fund deficits of \$93.4 million and \$56.4 million, respectively. 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 a single ultra security jail facility and saves the expensive of transport costs between the downtown jail and the MRJC. In addition, most King County employees agreed to forgo a cost of living allowance in 2011, which will save approximately \$5 million in the Law, Safety and Justice program area."

**Okanogan County 2010**

Number of 2010 cases claimed: 4

Amount claimed and documented: \$225,366

**Extraordinary Nature of Costs – Okanogan County reports:**

"The county had three pending aggravated murder cases from 2009 which we tried to accommodate in the 2010 budget process, however an additional aggravated murder case was charged in February 2010 adding to the already stretched budgetary funds of the county."

**Efficiencies—Okanogan County reports:**

"The county took steps to efficiently manage the costs of these cases by tracking and monitoring expenditures as well as making efforts to minimize costs while fulfilling legal obligations.

**Okanogan County 2009**

Number of 2009 cases claimed: 3

Amount claimed: \$108,291

Amount adjusted and documented: \$114,499

**Extraordinary Nature of Costs – Okanogan County reports:**

“This case initially occurred outside the normal budget process. Additionally, there were four suspects adding to the complexity of the case causing extraordinary investigation, incarceration, and prosecutorial costs that were substantially above the County’s monetary means.”

Efficiencies—Okanogan County reports:

“The county took steps to efficiently manage the costs of these cases by tracking and monitoring expenditures as well as making efforts to minimize costs while fulfilling legal obligations.”

**Skagit County**

Number of 2010 cases claimed: 2

Amount claimed and documented: \$30,663

Extraordinary Nature of Costs—Skagit County reports:

“Aggravated murder cases are the rarest of all criminal cases and Skagit County has very few of them; the County will frequently go years between the filing of aggravated murder cases.”

Efficiencies—Skagit County reports:

“The defense team carefully considered the necessity of each expert and then sought qualified experts in each field, paying particular attention to retaining “local” experts in order to eliminate out of state travel expenses.”

**Spokane County**

Number of 2010 cases claimed: 6

Amount claimed and documented: \$734,449

Extraordinary Nature of Costs—Spokane County reports:

“Several cases this year including one that needed to be moved to another county, *Devlin*.”

Efficiencies—Spokane County reports:

“Costs & contracts reviewed in advance, approved by judge.”

**Yakima County**

Number of 2010 cases claimed: 14

Amount claimed and documented: \$348,795

Extraordinary Nature of Costs--Yakima County reports:

“Three of these cases are ‘cold cases’ charged after new DNA evidence: Posada, Stafford, and Fletcher. One is an alleged serial killer. For the past two years Yakima County has been experiencing a high number of homicide cases, many gang related. Attached is a current open

homicide list showing 40 active homicide cases at the trial court level.<sup>2</sup> This is a very large number for a county the size of Yakima County. Prior cases continue to have miscellaneous costs.”

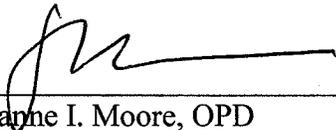
Efficiencies—Yakima County reports:

“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.”

<sup>2</sup> “Five cases not shown on the open case list but included in the data table are co-defendants charged out of one event but no defendants have yet been arrested.”

The 2010 Extraordinary Criminal Justice Costs Prioritized List is enclosed. Please contact Joanne Moore at 360-586-3164, ext. 112 if you have any questions or need more information,

Sincerely,



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Joanne I. Moore, OPD



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Tom McBride, WAPA



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Don Pierce, WASPC

Extraordinary Criminal Justice Costs Act  
2010 Prioritized List

Year	County	Adjusted Claim	Criminal Justice Budget	Budget Impact
2010	Franklin	\$ 438,618	\$ 10,021,942	4.4%
2010	Jefferson	\$ 217,915	\$ 9,034,113	2.4%
2010	Okanogan	\$ 225,366	\$ 10,032,748	2.2%
2009	Okanogan	\$ 114,499	\$ 10,872,347	1.1%
2010	Benton	\$ 329,248	\$ 40,121,638	0.8%
2010	King	\$ 4,155,117	\$ 536,442,509	0.8%
2010	Spokane	\$ 734,449	\$ 102,289,111	0.7%
2010	Yakima	\$ 348,795	\$ 51,704,325	0.7%
2010	Clallam	\$ 131,208	\$ 27,812,450	0.5%
2010	Skagit	\$ 30,663	\$ 28,535,035	0.1%