



WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE

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January 28, 2010

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

The Honorable Kelli Linville
Chair, House of Representatives Ways and Means Committee
Washington State House of Representatives
PO 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' 2009 petitions for state reimbursement of costs incurred in aggravated murder cases. First, 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 Benton, Franklin, Jefferson, King, Skagit, and Spokane 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 2009 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 six counties' claims is as follows:

Benton County

Number of 2009 cases claimed: 1
Amount claimed: \$175,505
Amount documented: \$173,768

Extraordinary Nature of Costs—Benton County reports:

“Aggravated murder cases are relatively rare in Benton County. Many aspects of this case are particularly complex and time consuming. Usual budget for defense is relatively small compared with the costs of this case.”

Efficiencies—Benton County

“All costs are subject to pre-authorization by the Benton County Office of Public Defense; all bills are reviewed and audited before payment.”

Franklin County

Number of 2009 cases claimed: 1
Amount claimed and documented: \$128,020

Extraordinary Nature of Costs—Franklin County reports:

“Extremely complex case from the 1980's. The defendant only recently was apprehended and extradited from Mexico. The budget is relatively small since aggravated murder cases are not common in Franklin County.”

Efficiencies—Franklin County

“All costs are subject to pre-authorization either judicially or by the Office of Public Defense (Franklin County); all bills are audited and reviewed before payment.”

Jefferson County

Number of 2009 cases claimed: 1
Amount claimed and documented: \$282,202

Extraordinary Nature of Costs—Jefferson County reports:

“This case occurred outside the timing of the normal budget, and the complexity of the case, its extraordinary costs for investigation, experts and death penalty qualified defense are substantial and beyond the County's available means.”

Efficiencies—Jefferson County

“When this case first occurred a county-wide project tracking code was created for all County Departments to track and monitor their costs. Each office has worked to minimize costs while fulfilling its obligations. Superior Court and the County Administrator have provided for indigent defense costs in a constitutional but reasonable fashion.

A death qualified defense attorney was selected from the State's list, and was released immediately when the death penalty was no longer a possibility.”

King County

Number of 2009 cases claimed: 8

Amount claimed and documented: \$3,386,389

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 eight 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.

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 2009 cases claimed: 2
Amount claimed and documented: \$675,532

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 (Zamora).”

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

Spokane County


Number of 2009 cases claimed: 5
Amount claimed and documented: \$383,140

Extraordinary Nature of Costs—Spokane County reports:
“The County does not have sufficient budget to cover these expenses as they were unanticipated.”

Efficiencies—Spokane County
“A separate budget was established to keep track of the expenses in Superior Court. The Assistant Court Administrator and Presiding Judges review all invoices to ensure expenses are within the hourly guidelines set upon appointment.”

The 2009 Extraordinary Criminal Justice Costs List is enclosed. Please contact Joanne Moore at 360-586-3164, ext. 112 if you have any questions or need more information,

Sincerely,



Joanne I. Moore, OPD



Tom McBride, WAPA



Don Pierce, WASPC

Extraordinary Criminal Justice Costs Act
2009 Prioritized List

Year	County	Adjusted Claim	Criminal Justice Budget	Budget Impact
2009	Jefferson	\$282,202	\$8,856,521	3.18%
2009	Skagit	\$675,532	\$31,576,392	2.14%
2009	Franklin	\$128,020	\$12,519,428	1%
2009	King	\$3,386,389	\$539,971,948	.62%
2009	Benton	\$173,768	\$42,782,543	.4%
2009	Spokane	\$383,140	\$109,665,111	.35%