



**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

Internet Email: opd@opd.wa.gov

(360) 586-3164
FAX (360) 586-8165

January 28, 2016

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

The Honorable Hans Dunshee
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 Hill and Representative Dunshee:

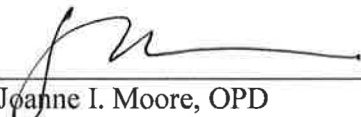
In accordance with the Extraordinary Criminal Justice Costs Act, RCW 43.330.190, the Office of Public Defense (OPD) has evaluated the counties' 2015 petitions for state reimbursement of costs incurred in aggravated murder cases. As required by the statute, OPD audited the veracity of the petitions. The 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 2015 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
King	2015	\$4,358,693	\$642,000,000	0.6%
Kitsap	2015	\$262,379	\$80,028,806	0.3%
Kitsap	2014*	\$67,392	\$77,122,102	0.08%

*Kitsap County began prosecuting two aggravated murder cases in 2014, which continued into 2015, amid a greater than usual number of non-aggravated homicides. See Attachment B.

King County

Number of 2015 cases claimed: 5

Total 2015 amount supported by documentation: \$4,358,693

Extraordinary Nature of Costs-King County reports:

King County continues to experience the financial strain of multiple aggravated murder cases. This year's claim includes five cases, including one for a defendant that is currently out-of-state.

Three of the five cases reported here have been in the King County criminal justice system for at least five years. These three were also death penalty cases, meaning that they demanded even greater public defense attorney and expert witness resources to ensure that justice is applied fairly. Two of these cases went to trial in 2015, resulting in over \$2 million in defense staff and expert witness costs for those cases alone. A third case included in this petition, although no longer a death penalty case, will go to trial in early 2016, resulting in additional expenditures. King County hopes to see a decline in aggravated murder costs following the resolution of these cases.

In recent years, King County has incurred these costs while dealing with an unprecedented fiscal crisis. In the 2009 through 2014 budgets, King County made expenditure reductions and revenue enhancements sufficient to close General Fund deficits totaling approximately \$230 million. The legal and financial obligations associated with costly aggravated murder cases significantly impacts King County's ability to provide other public services.

Efficient Use of Resources-King County reports:

King County has a number of mechanisms in place to 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 aggravated murder defendants 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 expense of transport costs between the downtown jail and the MRJC. In recent years, King County's leadership has made investments in new information technology systems such as replacing the PROMIS system used by the Prosecuting Attorney's Office and implementing a consolidated case management system for the Department of Public Defense. In July 2013, the County moved from a system of providing public defense through contracts to providing defense services directly via County staff. Although there have been growing pains associated with establishing a new department and merging the cultures of four independent firms, the County expects this change to enable better management and improved efficiency in the provision of public defense in the future.

Kitsap County

Number of 2015 cases claimed: 2

Total 2015 amount supported by documentation: \$262,379

Extraordinary Nature of Costs-Kitsap County reports:

Kitsap County's trend of above average homicide filings every other year held true in 2015. Only three homicides were charged in 2015. See Attachment A. However, the two aggravated homicides from 2014 were still active throughout 2015, resulting in above average costs.

Arndt homicide- The Arndt case stems from a homicide by arson. This case was assigned to one of Kitsap County's homicide contract firms in which both attorneys hold a homicide contract with Kitsap County. The court granted they both be assigned. The firm enlisted the expertise of a fire expert as well as the assistance of an investigator, transcriptionist and service fees. The trial, which concluded November 18, was a five week trial. Lengthy trials are not common for this county.

The court granted the defendant's fire expert be present throughout the trial, which will result in extraordinary trial costs. We will be filing a supplemental petition as we are still negotiating with the defendant's expert regarding his hourly fee.

Gaeta homicide- The Gaeta case involves a juvenile defendant and juvenile victim. This case was assigned to one of Kitsap County's homicide contract attorneys. That attorney then petitioned to have a second chair attorney appointed due to the complexity of the case. The court granted that request and a contract attorney who no longer has a homicide contract with Kitsap County was appointed. The second chair attorney currently holds a homicide contract at the federal level, so is qualified. The attorneys have enlisted the services of several experts as well as a mitigation expert and investigator. This proceeding is of unusually long duration for this County and involves specialized experts, some from out of state where travel was/is involved. This case will continue into 2016.

Efficient Use of Resources-Kitsap County reports:

All requests for experts, investigators, etc. were analyzed for necessity in each case and revised, if necessary. Each invoice submitted was screened for accuracy, and again, revised if necessary. Most experts were paid at the county or indigent rate, thus lowering those invoices dramatically.

HOMICIDE CASES 2010-2015 IN KITSAP COUNTY

2010

Henry Musgrove 10-1-00318-3	Murder 2nd
Amber Musgrove 10-1-00317-5	Murder 2nd
Kenneth Foell 10-1-00343-4	Vehicular Homicide
Darlene Green 10-1-00438-4	Murder 2nd (retained private attorney)
Wallace Finley 10-1-00546-1	Manslaughter 2nd (retained private attorney)
James Semore #10-1-00604-2	Murder 2nd
Marcus Oswald # 10-1-00701-4	Murder 2nd
Jose Garcia-Aburto# 10-1-00725-1	Vehicular Homicide

2011

Wayne Johnson #11-1-00149-9	Murder 2nd
Alexander Nelson #11-1-00849-3	Murder 1st
Mark Nilluka #11-1-00954-6	Vehicular Homicide (retained private attorney)

2012

Angelica Dibella-Lira #12-1-01312-6	Murder 2nd
Dan Phillips #12-1-01061-5	Murder 1st
Casey Cutlip # 12-1-00602-2	Murder 1st
Peter Sedrak #12-1-00356-2	Vehicular Homicide (retained private attorney)
Kevin Hardee #12-1-00614-6	Murder 2nd (retained private attorney)
Michael Graver # 12-1-00919-6	Vehicular Homicide
Charles Sherman #12-1-00981-1	Vehicular Homicide

2013

Jason Salas #13-1-01216-1	Murder 1st (Charged in November, 2013 & carried into 2014)
Stephen Zapatka #13-1-00120-7	Controlled Substance-Homicide
Christopher Mcinerney # 13-1-00520-2	Murder 1st
Norman Solis #13-1-00732-9	Vehicular Homicide (retained private attorney)

2014

Gabriel Gaeta #14-1-00786-6	Aggravated Murder 1st
David Kalac #14-1-01073-5	Murder 2nd
Shelly Arndt #14-1-00428-0	Aggravated Murder 1st
Hector Saavedra Ruiz #14-1-00814-5	Murder 2nd
Renee Nash #14-1-00360-7	Manslaughter 2nd
Chong Charpentier # 14-1-01244-4	Murder 1st (retained private attorney in 2015)
Robert Rundquist # 14-1-00186-8	Vehicular Homicide (retained private attorney)
Daniel Krogman # 14-1-01110-3	Vehicular Homicide
Christopher Mayo # 14-1-01170-7	Murder 2nd

2015

Heidi Smith #15-1-00710-4	Murder 1st
David Betancourt # 15-1-00724-4	Murder 2nd
Gerald DeJesus #15-1-00972-7	Murder 1st

Kitsap County

Number of 2014 cases claimed: 2
Total 2014 amount supported by documentation: \$67,392

Extraordinary Nature of Costs-Kitsap County reports:

Kitsap County's trend seems to be every other year we experience an above average amount of homicides, and 2014 was no exception. See attachment A. Two of the nine homicides were charged as aggravated murder. Not only were we not anticipating two aggravated murder cases, we were not anticipating this number of other homicides. There is a lack of history in Kitsap County of aggravated murder proceedings so budgeting for this type of case was not anticipated for in 2014, as well as five other homicides.

Arndt homicide- The Arndt case stems from a homicide by arson. This case was assigned to one of Kitsap County's homicide contract firms in which both attorneys hold a homicide contract with Kitsap County. The court granted they both be assigned due to the complexity of the case. The firm enlisted the expertise of a fire expert as well as the assistance of an investigator and transcriptionist s. This proceeding is of unusually long duration for this County and involved unusually complicated investigations by the fire expert.

Gaeta homicide- The Gaeta case involves a juvenile defendant and juvenile victim. This case was assigned to one of Kitsap County's homicide contract attorneys. That attorney then petitioned to have a second chair attorney appointed due to the complexity of the case. The court granted that request and a contract attorney who no longer has a homicide contract with Kitsap County was appointed. The second chair attorney currently holds a homicide contract at the federal level, so is qualified. The attorneys have enlisted the services of several experts as well as a mitigation expert and investigator. This proceeding is of unusually long duration for this County and involved specialized experts.

Efficient Use of Resources-Kitsap County reports:

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