



**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

Larry Jefferson, Director

Email: opd@opd.wa.gov

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

February 2, 2024

The Honorable June Robinson
Chair, Senate Ways & Means Committee
Washington State Senate
303 John A. Cherberg Building
PO Box 40423
Olympia, WA 98504

The Honorable Timm Ormsby
Chair, House of Representatives Appropriations Committee
Washington State House of Representatives
315 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504

Re: RCW 43.330.190—Reimbursement for Extraordinary Criminal Justice Costs

Dear Senator Robinson 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' 2023 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 Yakima, Kitsap, and Franklin 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 2023 Extraordinary Criminal Justice Costs Act prioritized list (Attachment A) shows the claimed aggravated murder cases' disproportionate impact on the counties' budget. 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.


Justice ♦ Service ♦ Equity ♦ Excellence

711 Capitol Way South • Suite 106 • P.O. Box 40957 • Olympia, Washington 98504-0957

The Honorable Christine Rolfes
The Honorable Timm Ormsby
February 2, 2024
Page 2

The counties provided statements addressing why the 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 as Attachment B.


Sincerely,


[Larry Jefferson \(Feb 2, 2024 11:32 PST\)](#)

W. Larry Jefferson
Director
Washington State Office of Public Defense



Russell Brown
Executive Director
Washington Association of Prosecuting Attorneys


[Steven D Strachan \(Feb 2, 2024 11:38 PST\)](#)

Steven D. Strachan
Executive Director
Washington Association of Sheriffs and Police Chiefs

Extraordinary Criminal Justice Costs Act 2023 Prioritized List

County	Verified Claim	Criminal Justice Budget	Budget Impact
Yakima	\$352,651	\$70,511,033	0.5%
Kitsap	\$388,806	\$106,239,869	0.4%
Franklin	\$25,000	\$25,194,015	0.01%

Yakima County

Number of 2023 aggravated murder cases claimed: 8

Total 2023 amount supported by documentation: \$352,651

Extraordinary Nature of Costs—Yakima County reports:

Yakima County had 8 aggravated murder cases pending trial or post-conviction proceedings in its Superior Court in 2023. Yakima County's aggravated murder cases pending trial are expected to continue well into 2024. County resources are also used at the appellate stage of these proceedings. Expenditures are included in this petition.

Yakima County also responds to clemency petitions on aggravated murder cases. County resources are used by interested agencies in response and are reflected in this petition.

Four of the 8 aggravated murder cases require *Miller* re-sentencings. *Miller* resentencing requires extensive preparation and mitigation investigation similar to death penalty litigation. The expenditures are also on par with pre-filing death mitigation. The expenses incurred are due to the continued expectation and requirement of significant sentencing mitigation investigations by both defense and prosecution.

Yakima County has passed a 3/10th 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 without shifting resources away from non-criminal justice obligations.

Efficient Use of Resources—Yakima County reports:

Death requests have *not* been filed in the cases pending in Yakima County. Qualified staff attorneys at the Dept. of Assigned Counsel, or qualified attorneys who have contracts with the county to provide indigent defense services, are appointed when possible. Terms of appointments of qualified attorneys outside of the indigent defense program are tailored to case needs.

Kitsap County

Number of 2023 aggravated murder cases claimed: 3

Total 2023 amount supported by documentation: \$388,806

Extraordinary Nature of Costs—Kitsap County reports:

This request is based on three Superior Court cases involving three co-defendants, two of which are brothers, and four deceased victims, including two adults and two juveniles. The facts/deaths underlying the criminal charges occurred in January 2017. The three defendants were not apprehended and/or criminally charged until June 2022. The investigations involving four deceased victims, three of whom were located in a burning structure, was extensive. Facts underlying the case suggest some potential involvement of a notorious biker gang and drugs. The length of trial, including case preparation and pretrial hearings, has been lengthy and complex. Two notable and unanticipated expenses involve the appointment and compensation for two defense attorneys for one defendant (22-1-00464-18) and the appointment and payment of attorney expenses (22-1-00463-18) where lead counsel was already retained by the defendant. The details and background surrounding the three defendants has required the temporary implementation of extraordinary court security measures to ensure the safety of the co-defendants, jurors, prosecution and defense counsel, trial judge, court staff and the public. Motions in Limine began in early September 2023 with the ongoing jury trial presently expected to last into February 2024. Given the length of the trial, the Court screened approximately 250 jurors, roughly 200 more than usual, before empaneling an eighteen-juror trial panel.

Efficient Use of Resources—Kitsap County reports:

To the extent possible, the Superior Court, the County Office of Public Defense, the Prosecuting Attorney's Office, the County Sheriff/Jail/Court Security unit, and the County Clerk's Office/Jury Management have absorbed as many costs as would be typically expended in a standard criminal jury trial.

Franklin County

Number of 2023 aggravated murder cases claimed: 2

Total 2023 amount supported by documentation: \$25,000

Extraordinary Nature of Costs—Franklin County reports:

These cases were filed in 2021. Both defendants were located and extradited from Mexico in 2023 causing significant cost to the County and the criminal justice system in general. The allegations of these cases are very complex and very lengthy investigations went into them since they were unable to locate the two defendants inside of the US.

Efficient Use of Resources—Franklin County reports:

In an effort to be more efficient and potentially financially manage funds we elected to switch our homicide attorney contracts to flat rate. The first half of the compensation is provided at appointment and the second half is provided at resolution of said case.

Note by OPD: Franklin County provided documentation supporting \$25,000 spent on non-employee public defense costs. The county reports that it will owe an additional \$25,000 at the conclusion of these ongoing cases.












2023 Extraordinary Criminal Justice Cost Itr


Final Audit Report

2024-02-02


Created:	2024-02-02
By:	Gideon Newmark (gideon.newmark@opd.wa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAo0jdzec1r8Eas1YbWnrexvjHdvEUaEB2

"2023 Extraordinary Criminal Justice Cost Itr" History

-  Document created by Gideon Newmark (gideon.newmark@opd.wa.gov)
2024-02-02 - 6:53:09 PM GMT- IP address: 198.238.20.5
-  Document emailed to larry.jefferson@opd.wa.gov for signature
2024-02-02 - 6:54:15 PM GMT
-  Document emailed to Russell Brown (rbrown@waprosecutors.org) for signature
2024-02-02 - 6:54:15 PM GMT
-  Document emailed to steve@waspc.org for signature
2024-02-02 - 6:54:16 PM GMT
-  Email viewed by Russell Brown (rbrown@waprosecutors.org)
2024-02-02 - 7:04:43 PM GMT- IP address: 54.215.85.72
-  Document e-signed by Russell Brown (rbrown@waprosecutors.org)
Signature Date: 2024-02-02 - 7:05:11 PM GMT - Time Source: server- IP address: 65.152.65.234
-  Email viewed by larry.jefferson@opd.wa.gov
2024-02-02 - 7:32:05 PM GMT- IP address: 172.225.80.203
-  Signer larry.jefferson@opd.wa.gov entered name at signing as Larry Jefferson
2024-02-02 - 7:32:45 PM GMT- IP address: 174.215.120.14
-  Document e-signed by Larry Jefferson (larry.jefferson@opd.wa.gov)
Signature Date: 2024-02-02 - 7:32:47 PM GMT - Time Source: server- IP address: 174.215.120.14
-  Email viewed by steve@waspc.org
2024-02-02 - 7:37:45 PM GMT- IP address: 104.47.51.126
-  Signer steve@waspc.org entered name at signing as Steven D Strachan
2024-02-02 - 7:38:15 PM GMT- IP address: 50.206.45.34

 Document e-signed by Steven D Strachan (steve@waspc.org)

Signature Date: 2024-02-02 - 7:38:17 PM GMT - Time Source: server- IP address: 50.206.45.34

 Agreement completed.

2024-02-02 - 7:38:17 PM GMT