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**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

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January 25, 2012

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 Office of Public Defense (OPD) has evaluated the counties' 2011 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, King, Skagit, and King 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 2011 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 are as follows:

Franklin County

Number of 2011 cases claimed: 1

Amount claimed and documented: \$240,863

Extraordinary Nature of Costs—Franklin County reports:

“Highly unusual case with complex issues, extremely old (incident occurred in the 1980’) and involving witnesses from different counties. 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.”

King County

Number of 2011 cases claimed: 8

Amount claimed and documented: \$2,584,251

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 includes 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 intensive supervision. They also generally spend more time in county facilities 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 addition, defense expert witness costs for aggravated murder cases have grown tremendously in recent years.

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 through 2011 budgets, King County made additional expenditure reductions and revenue enhancement sufficient to close General Fund deficits totaling \$209 million. 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 expense of transport costs between the downtown jail and the MRJC. In addition, most King County employees agreed

forgo a cost of living allowance in 2011, which saved approximately \$5 million in the Law, Safety, and Justice program area.”

Skagit County

Number of 2011 cases claimed: 2

Amount claimed and documented: \$51,155

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 judges and attorneys carefully considered the necessity of each expense and then sought qualified contractors to provide necessary services.”

Yakima County

Number of 2011 cases claimed: 13

Amount claimed and documented: \$466,798

Extraordinary Nature of Costs--Yakima County reports:

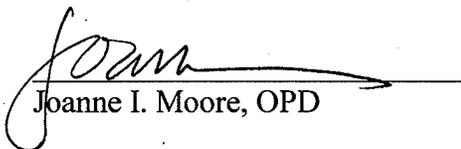
“There were 13 Aggravated Murder 1 cases with expenses in 2011. This is a high number for any county. Yakima County has been experiencing a high number of homicide cases, many gang related. Three of the listed cases are ‘cold cases’ charged after new DNA evidence was identified by law enforcement: Posada, Stafford, and Fletcher. The Kevin Hapre matter is a triple homicide case that occurred in 2011. There have also been some small residual billings from prior cases.”

Efficiencies—Yakima County reports:

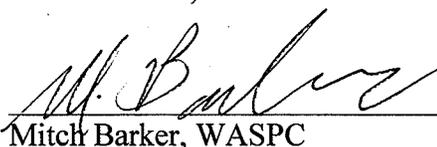
“Death requests have not been filed. Staff attorneys at the Dept. of Assigned Counsel are used where no conflicts exist. Terms of appointment are tailored to case needs.”

The 2011 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,


Joanne I. Moore, OPD


Tom McBride, WAPA


Mitch Barker, WASPC

**Extraordinary Criminal Justice Costs Act
2011 Prioritized List**

County	Adjusted Claim	Criminal Justice Budget	Percent of Budget Impact
Franklin	\$240,863	\$11,760,549	2.0
Yakima	\$466,798	\$46,462,138	1.0
King	\$2,584,251	\$531,387,504	.5
Skagit	\$51,155	\$29,159,274	.18