

# Update to Board of County Commissioners

**From: Public & Government Affairs**

**RE: Discovery Costs**

**Date: 01-18-2022**

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Summary	District Attorneys offices statewide charge costs to public defense attorneys to offset the cost of providing discovery before a trial begins. For decades, the Office of Public Defense Services (OPDS) has paid these costs. It is our understanding that public defense attorneys who are contracted through OPDS have received reimbursement from OPDS for these costs. However, OPDS recently announced that they will no longer pay these costs beginning January 1, 2022. This change will result in approximately \$250,000 of lost income to the county budget. It is our understanding that statewide impacts to county budgets could be \$6 million if OPDS does not continue to pay these cost recovery fees.
Department Support	DA – Supports a legislative fix that prevents this cost shift to counties.  PGA – Counties statewide are in alignment on this issue and reaching out to legislators to seek a remedy.
Staff Recommendation	<b>Support a legislative fix that addresses the negative impact to county budgets.</b>
Timeline	The short session begins on 2/1 and lasts for no more than 35 days.

**DRAFT**

January X, 2022

Clackamas County Legislative Delegation  
900 Court St. NE  
Salem, OR 97301

**RE: District Attorney Discovery Costs**

Dear Clackamas County legislators:

We are reaching out today to request your assistance on an emerging issue that is impacting the county and will likely be brought to the state legislature in the 2022 legislative session.

Our District Attorney's office charges reasonable costs to public defense attorneys to offset the cost of providing discovery before a trial begins. For many decades, the Office of Public Defense Services (OPDS) has paid these costs, and it is our understanding that public defense attorneys who are contracted through OPDS have received reimbursement from OPDS for these costs. Recently, however, OPDS announced that they will no longer pay these costs, effective January 1, 2022.

In the current fiscal year, the county budget reflects an estimated \$250,000 in revenue from the repayment for discovery costs. In discussing this issue with our fellow counties and district attorneys across the state, we understand the statewide impacts to county budgets could be \$6 million if OPDS does not continue to pay these cost recovery fees.

We are asking that, during the short session, the legislature pass a remedy that addresses the budget impacts to counties. It is our hope that a mutually agreeable solution can be found that prevents this cost shift from negatively impacting Clackamas County's budget. Avoiding additional costs that have historically been paid for by the state is critical in our ability to deliver effective services to our residents.

Thank you in advance for your attention to this important matter. Please contact Chris Lyons ([cl Lyons@clackamas.us](mailto:cl Lyons@clackamas.us)) if you have any follow-up questions.

Sincerely,

Tootie Smith, Chair  
On behalf of the Clackamas County  
Board of Commissioners

John Wentworth, District Attorney  
Clackamas County