


Attachment 1
1-25-23

Office of The State Appellate Public Defender



I.C. § 19-868: Statement of Legislative Intent in creating the SAPD: The cost of legal representation for indigent defendants on appeal “is an extraordinary burden on the counties....”

- ▶ to reduce that burden
- ▶ to provide competent counsel
- ▶ avoid paying high hourly rates to independent counsel

Capital Crimes Defense Fund

- ▶ Created in 1998 by I.C. § 19-863A
- ▶ CCDF acts like an insurance program
 - ▶ Counties pay an annual premium based upon population
 - ▶ The counties pay a \$10K deductible per case, then the fund covers the additional defense costs
- ▶ As of December 2016, all 44 counties participate
- ▶ CCDF is managed by a 7 member Board of Directors elected by the counties
- ▶ Counties that participate in the fund also receive the services of the SAPD as defined in I.C. § 19-868, et. seq.

The Right To Counsel



- ▶ The right to effective assistance of counsel in an appeal of right from a felony conviction is guaranteed by the United States and Idaho Constitutions.
- ▶ The right to counsel in a post-conviction action is provided by Idaho statute and is discretionary in felony cases and mandatory in capital cases.

SAPD Staff

▶ **Administrative**

- ▶ Eric D. Fredericksen, State Appellate Public Defender, 1 office administrator

▶ **Capital Litigation Unit**

- ▶ 2 lead attorneys (1 is Chief of CLU), 1 staff attorney, 1 mitigation specialist, 1 investigator, 1 support staff

▶ **Appellate Unit**

- ▶ 1 Chief of AU, 12 staff attorneys, 3 support staff, 1 receptionist

- ▶ Total: 25 Full-Time Employees, 1 Part-Time Employee

Appellate Unit Case Types

▶ Direct Appeals

- ▶ An appeal from the felony conviction itself or grant of motion in a felony, misdemeanor (2020), and juvenile (2020) case on appeal by the State of Idaho
- ▶ Review of what occurred in court, on the record
- ▶ Reviewing whether the district court did its job consistently with the law
- ▶ Review of some unpreserved Constitutional violations

▶ Habeas Corpus Appeals

- ▶ Generally limited to claims regarding conditions of confinement
- ▶ Some claims regarding parole processes

▶ Post-Conviction Appeals I.C. §19-4901, et. seq.

- ▶ Civil Action in which the former defendant sues the State asserting specific errors
- ▶ Allows the petitioner to provide evidence of things that occurred out of court and off the record
- ▶ Proper vehicle to raise claims of Ineffective Assistance of Counsel

Appellate Unit

Caseload vs. Workload

▶ **Caseload** measures the number of **cases opened** by the SAPD within a given fiscal year. The opened date is the date the Notice of Appeal is filed.

- ▶ FY2019: 600
- ▶ FY2020: 618
- ▶ FY2021: 435
- ▶ FY2022: 568

▶ **Workload** measures the average weighted value of case **work handled** by an Appellate Unit attorney.

- ▶ FY2019: 51.81
- ▶ FY2020: 58.08
- ▶ FY2021: 43.30
- ▶ FY2022: 36.56

Capital Unit Case Types

- ▶ **Post-Conviction Proceedings in District Court**
 - ▶ Filing of Petition for Relief
 - ▶ Investigation
 - ▶ Summary Dismissal Proceedings
 - ▶ Evidentiary Hearings
- ▶ **Consolidated Appeal**
 - ▶ Includes both the Direct Appeal and the Post-Conviction Appeal
- ▶ **Interlocutory Appeals in Post-Conviction**

Active Death Penalty Litigation - Idaho

- ▶ SAPD has 6 active cases in its Capital Litigation Unit:
 - ▶ Timothy Dunlap – Petition for Writ of Certiorari filed
 - ▶ Erick Virgil Hall (Hall II) – On appeal.
 - ▶ Jonathan David Renfro – Death Verdict 11/6/17. In discovery phase before evidentiary hearing.
 - ▶ *Shinn v. Ramirez*, 142 S.Ct. 1718 (2022) – Hairston, Row, and Creech
- ▶ 32 active First Degree Murder cases in 13 counties in Idaho's district courts.
- ▶ Death Notice filed in 4 cases.

FY2023 Supplemental and FY2024 Budget

Total Budget Request - \$3,670,400

Governor Recommendation - \$3,768,500

FY2024 Line Items - \$152,600

1. New Capital Litigation Attorney - \$130,000
2. DHR Consolidation - \$22,600

FY2023 Supplementals -

1. ITS Increases Storage Capacity - \$67,500
2. Capital Cases and Evidentiary Hearing Costs - \$1,309,400
 - a. *Renfro v. State of Idaho* evidentiary hearing - \$98,000
 - b. New capital cases - \$1,211,400

Commissions and Committees

- Idaho Criminal Justice Commission
- Public Defense Commission
- Idaho Grant Council
- Idaho Criminal Rules Committee
- Idaho Rules of Evidence Committee
- Idaho Appellate Rules Committee
- Idaho Criminal Jury Instructions Committee



“There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”

Griffin v. Illinois, 351 U.S. 12 (1956)