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

<u>FY2024 Line Items</u> - $152,600

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

<u>FY2023 Supplementals</u> -

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)