



DEFENSE

Batch of death penalty cases drains Wyoming Public Defender's Office budget



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CHEYENNE -- A rash of actual and potential death penalty cases left the Wyoming Public Defender's Office pinched for money last year, the agency's director said Wednesday.

The office spent \$665,000 on seven potential cases between July 1, 2012 and Oct. 31, 2013 compared to only one capital case in the past two budget cycles, Diane Lozano said during a budget hearing before the Legislature's Joint Appropriations Committee.

The agency handled homicide and potential death penalty cases in Park County (three), Fremont County (two), Platte County (one) and Laramie County (one).

All but one of the homicide cases were resolved by the defendants pleading guilty and receiving sentences of life in prison.

The remaining active case is in Laramie County where [Nathaniel Castellanos](#), 33,

faces the death penalty for allegedly fatally shooting two community college students and critically wounding a third at his Cheyenne residence in August 2011.

Lozano said the trial is scheduled to open in February and is expected to last five to six weeks.

State budget cuts forced the Public Defender's Office to trim \$901,000 last year. Most of the reduction came from curtailing attorney contracts.

Lozano said she had to ask Gov. Matt Mead for authority to hire an additional attorney and may need to ask for a second.

She is asking the Legislature for an immediate appropriation of \$370,000 to replace dollars borrowed from other agency accounts to pay costs of the capital cases.

In addition, Mead is recommending \$300,000 to meet the constitutional requirements for capital cases for the coming two-year budget period that begins July 1.

In capital cases, the state must pay for mitigation, which means hiring one or more investigators to look into the background of the defendant going back three generations, Lozano said.

The work isn't as time-consuming if the defendant is born in Wyoming and all of the records are in the state.

"We've had cases where the defendant is from another country," she said.

Such cases entail substantial travel costs.

The attorneys who work for the agency handled more than 14,000 criminal cases last year, which was substantially more than caseloads in the past, she said.

In answer to a question, Lozano said 95 percent or more of the cases were settled through plea bargaining with the prosecutors.

Lozano said it's the same ratio for private attorneys representing criminal defendants.

If all of the cases went to trial, the criminal justice system couldn't handle the traffic, she said.

In other states where lawsuits have been filed claiming inadequate representation, the attorneys are too busy to even meet with their clients, she said.

Wyoming is nowhere near that situation, she said.

The agency requested \$400,000 to hire investigators to handle the mitigation requirements for the capital or potential capital cases. The budget request said having attorneys on staff would save money in the long term.

But Mead rejected the request on grounds that the batch of potential capital cases was an "anomaly," said Bret Jones, state budget division director.

Linda Burt, director of the Wyoming chapter of the American Civil Liberties Union, said Wednesday said it's important that defendants get the best representation they can.

The ACLU has sued Montana and a couple of other states for not providing enough money for adequate representation for indigent criminal defendants.

"Representation in a criminal case is a constitutional issue," Burt said. "Mitigation is a very part of a capital case. We'll certainly be looking at that and we'll be pay close attention."

Burt also said last year's number of homicide cases was unusually high for the state.

"I hope this is not something we're going to see as a trend," she said. "I think we've been lucky in Wyoming that we haven't had a lot of these cases."

