

Nebraska Department of Justice
Cost Information for Nebraska Death Penalty Cases

The Department of Justice does not now and, to our knowledge, never has had a budget in which funds were specifically identified for capital litigation.

The defense of judgments imposing a sentence of death has historically been treated as one of many responsibilities that the Department has for criminal litigation, including representing the State of Nebraska in all criminal direct appeals before the Nebraska appellate courts, representing the State of Nebraska in all criminal post-conviction appeals before the Nebraska appellate courts, representing the State of Nebraska in all habeas corpus proceedings in the federal trial and appellate courts, and assisting County Attorneys in the prosecution of crimes in the Nebraska trial courts.

Capital cases routinely represent no more than 1% of the annual criminal appellate case load of the Department of Justice. For example, a comparison of non-capital criminal appeals filed and capital appeals filed is shown in the Table 1.

Nebraska Department of Justice
Death Penalty Appeals as a Percentage of All Criminal Appeals

Year	Non-Capital Criminal Appeals Filed	Capital Appeals Filed	Capital Case Appeals as a Percentage of All Criminal Appeals
2003	682	3	0.4%
2004	434	2	0.4%
2005	484	3	0.6%
2006	625	3	0.4%
2007	381	3	0.7%
2008	414	1	0.2%
2009	506	2	0.3%
2010	494	5	1%
2011	460	5	1%
2012	485	5	1%
2013	451	0	0%
2014	527	2	0.3%

Since 1973, there has normally been one attorney with primary responsibility for monitoring capital cases, and never more than two attorneys assigned responsibility for individual state appellate and federal capital litigation cases at any given time.

During the last three administrations, there has not been an attorney whose sole workload was capital litigation. Capital litigation has always been among numerous responsibilities of the attorney or attorneys responsible for capital cases. Support staff time is correspondingly divided.

Currently, the Solicitor General has primary responsibility for state court appeals and federal litigation in capital cases. In addition to that responsibility, the Solicitor General is Bureau Chief of the Civil Litigation Bureau, is a resource to all Bureaus of the office reviewing upon request both civil and criminal briefs filed on behalf of the Department, creates and conducts training on appellate practices and procedures for the Department, conducts moot courts for attorneys preparing for oral arguments before the state and federal appellate courts, and carries a case load of non-capital criminal cases in the state and federal courts. The Solicitor General shares a support staff person with 4 other assistant attorneys general.

¹⁶*State v. Rust*, District Court of Douglas County, #CR 10 9001621. The Department handled the retrial due to a conflict of interest in the Douglas County Attorney's Office.