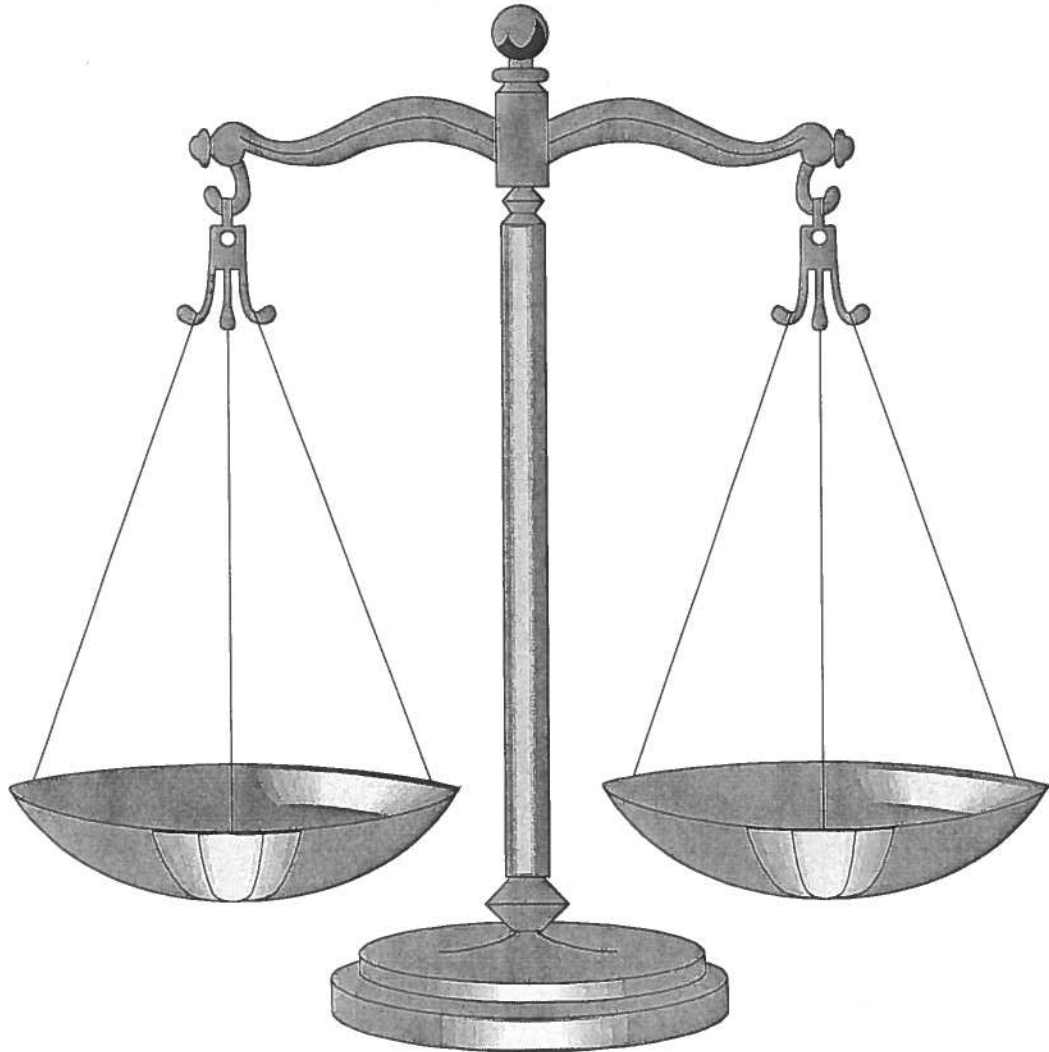


OKLAHOMA

INDIGENT DEFENSE SYSTEM



2015 Annual Report

... to provide indigents with legal representation comparable to that obtainable by those who can afford counsel and to do so in the most cost-effective manner possible.

Oklahoma

Indigent Defense System



MARY FALLIN
GOVERNOR

MICHAEL C. THOMPSON
CABINET SECRETARY
SAFETY AND SECURITY

JOE P. ROBERTSON
Executive Director

This publication is printed and issued by the Oklahoma Indigent Defense System as authorized by 74 O.S. §§ 3103-3106.1. Twenty (20) copies have been prepared and distributed at a cost of \$39.20. Copies have been deposited with the Publications clearinghouse of the Oklahoma Department of Libraries.

JOE P. ROBERTSON
EXECUTIVE DIRECTOR



MARY FALLIN
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STATE OF OKLAHOMA
OKLAHOMA INDIGENT DEFENSE SYSTEM

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September 18, 2015

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TO THE HONORABLE MARY FALLIN
HONORABLE BRIAN BINGMAN
HONORABLE JEFFREY HICKMAN
HONORABLE JOHN REIF
HONORABLE CLANCY SMITH

It is our privilege to submit a report concerning the duties, activities and accomplishments of the Oklahoma Indigent Defense System for the fiscal year ending June 30, 2015, in accordance with 22 O.S. § 1355.3(B) and 22 O.S. § 1355.4(C)(14).

The Oklahoma Indigent Defense System is grateful for the support that it received during Fiscal Year 2015 from the Governor and her staff, from the Legislature and from the Judiciary.

As we move forward in 2016, we would like to recognize all of the attorneys, investigators, administrators, secretaries and experts for their commitment to our mission and their unwavering dedication to our clients. We also wish to acknowledge the work and dedication of the private attorneys who serve generously as OIDS contractors. It is only through the efforts of all of these individuals that the right to counsel flourishes in Oklahoma and the interests of justice are protected.

Sincerely,

A handwritten signature in cursive script that reads "Joe P. Robertson".

Joe P. Robertson
Executive Director

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Chapter 1

◆ Introduction

The mission of the Oklahoma Indigent Defense System is to provide indigents with legal representation comparable to that obtainable by those who can afford counsel and to do so in the most cost effective manner possible.

OIDS fulfills the majority of the State's obligations under the Oklahoma and United States Constitutions to provide trial, appellate and capital post-conviction criminal defense services to persons who have been judicially determined to be entitled to legal counsel at State expense. The Oklahoma Indigent Defense Act, 22 O.S. § 1355, *et seq.*, which created the agency, sets forth the duties and responsibilities of the agency, the Indigent Defense System Board and the OIDS Executive Director.

The agency is governed by a five-person Board. Each member is appointed by the Governor, with the advice and consent of the Oklahoma Senate, for a five-year term. On July 1, 2014, Patrick Cornell replaced Randolph Meachum, who served with distinction on the Board since 2004.

The agency consists of three program areas: the General Operations Program, the Trial Program and the Appellate Program. The Trial Program consists of the Non-Capital Trial Division and two capital trial divisions: Capital Trial Norman and Capital Trial Tulsa. The Appellate Program contains the General Appeals

Division, the Homicide Direct Appeals Division and the Capital Post-Conviction Division.

OIDS is appointed by the trial and appellate courts of Oklahoma after an indigence determination is made by the court. OIDS is subject to appointment to provide trial representation criminal cases in 75 of Oklahoma's 77 counties. During the fiscal year, OIDS contracted with private Oklahoma-licensed attorneys to handle 100% of the indigent non-capital trial caseload in 55 counties. In 20 counties, staff attorneys handled the majority of the indigent caseload. Private attorneys handle the majority of the System's conflict cases. In death penalty cases and non-capital appeals, attorneys employed by OIDS are assigned the case after OIDS has been appointed by a district court or the Oklahoma Court of Criminal Appeals.

OIDS represented a total of 49,723 court appointments in Fiscal Year 2015. The numerical breakdown by division is as follows:

NON-CAPITAL TRIAL	
<i>Staff</i>	10,334
<i>County Contracts</i>	37,176
<i>Conflicts</i>	1,454
CAPITAL TRIAL - NORMAN	21
CAPITAL TRIAL - TULSA	29
GENERAL APPEALS	565

HOMICIDE DIRECT APPEALS	86
CAPITAL POST CONVICTION	55
EXECUTIVE DIVISION CONFLICTS	
<i>Capital Trial Divisions</i>	2
<i>Capital Post Conviction</i>	1
TOTAL	49,723

Given the nature of criminal cases, most span more than one fiscal year. In complex cases, such as death penalty cases, OIDS may represent a client for three or more years. Accordingly, the total number of cases handled during a fiscal year includes appointments pending from the prior fiscal year in addition to the current year court appointments. The total caseload numbers for Fiscal Year 2015 represent an increase of 3% over the previous fiscal year, and an increase of 26% since Fiscal Year 2009.

OIDS is funded by the Oklahoma Legislature through appropriations from the State's general revenue fund. OIDS also receives a varied and unpredictable amount of funds from the costs of representation assessed against a criminal defendant in certain cases.

Chapter

2

◆ General Operations Program

EXECUTIVE DIVISION

The Executive Division is charged with the responsibility of managing and operating the agency and implementing the Indigent Defense Act. By statute, the Executive Director is selected by and serves at the pleasure of the agency's governing Board.

To aid the Executive Director in the implementation of the Indigent Defense Act and agency operations, the Executive Division is staffed with administrative and finance personnel. OIDS provides legal representation through the services of staff members and by contracting with private attorneys, experts and investigators. At the end of the fiscal year, OIDS employed 112 full-time equivalent staff members at its main office in Norman as well as its offices in Clinton, Guymon, Mangum, Okmulgee and Sapulpa. Further, three employees of the Oklahoma Office of Management and Enterprise Services, who provide IT services to the agency, work in the agency's Norman Office.

In Fiscal Year 2015, the agency entered into 152 new professional services contracts with private attorneys and experts to provide defense

services in court-appointed cases, in addition to administering 227 contracts carried over from the previous fiscal year. The Executive Division services these contracts in addition to providing support services to its staff attorneys and investigators.

Statutory Duties

- ◆ Budget
- ◆ Claims
- ◆ Contracts with private attorneys
- ◆ Improve State's criminal justice system
- ◆ Training for attorneys
- ◆ Defense representation
- ◆ Employ necessary personnel
- ◆ Set rates for attorneys who accept court appointments
- ◆ Set maximum caseloads
- ◆ Advise OIDS Board
- ◆ Conferences and training seminars
- ◆ Provide personnel to serve in advisory capacity to criminal defense attorneys
- ◆ Recommend legislation
- ◆ Track costs
- ◆ Adopt policies & procedures
- ◆ Support efforts to recoup costs of representation
- ◆ Provide for expert and investigator services

WEBSITE

The agency's website provides information about OIDS, resources for public defenders and others interested in criminal law issues, answers to most frequently asked questions and notices of training opportunities. The website can be accessed at www.oids.ok.gov. The website contains many links, including those for legal research, unpublished Oklahoma Court of Criminal Appeals opinions and official agency forms used by OIDS contractors, experts and investigators.

TRAINING PROGRAM

The Indigent Defense Act requires OIDS to provide training for its staff members and private attorneys who are under contract with OIDS to accept court appointments. OIDS co-sponsored the yearly Patrick A. Williams Criminal Defense Institute, held June 25th and 26th in Oklahoma City.

EXECUTIVE CONFLICT CASELOAD

During Fiscal Year 2015, the Executive Division maintained contracts with outside attorneys for representation in a total of three conflict cases. The year began with one pending district court death penalty case. One additional conflict capital case was opened during the fiscal year, along with an additional non-capital direct appeal conflict case. All three cases were carried over into Fiscal Year 2016.

Chapter 3

◆ Trial Program

The Trial Program consists of three Divisions which provide legal representation to agency clients who have been judicially determined to be unable to afford counsel to defend against criminal charges brought by the State in district court. OIDS is appointed by the district courts to represent these defendants.

The right to counsel at State expense was established by the United States Supreme Court in *Gideon v. Wainwright*, 371 U.S. 335 (1963). The right to expert assistance at State expense was established by the United States Supreme Court in *Ake v. Oklahoma*, 470 U.S. 68 (1985).

Non-Capital Trial Division

The Non-Capital Trial Division (NCTD) is responsible for defending indigent criminal defendants charged with offenses punishable by incarceration. Cases range from traffic offenses filed in state court to non-capital first degree murder. NCTD's area of responsibility spans 75 counties, with Oklahoma and Tulsa Counties being excluded. Thus, NCTD represents the agency's largest group of clients. In Fiscal Year 2015, NCDT received 37,009 new appointments. NCTD's total FY-2015

caseload, which includes cases carried forward from previous fiscal years, equaled 48,964 active cases.

Delivery of Non-Capital Trial Legal Services

In accordance with the Indigent Defense Act, NCTD provides legal representation in the 75 counties for which it is responsible in four ways:

- (1) flat-rate fiscal year contracts with private attorneys;
- (2) satellite offices with salaried staff attorneys;
- (3) assignment of conflict cases to private attorneys who have agreed to accept such cases at established agency hourly rates, subject to statutory maximums set by the Indigent Defense Act; and
- (4) assignment of cases to two roving attorneys.

In Fiscal Year 2015, the Division's caseload was handled as follows:

- (1) Flat-rate Fiscal Year Contracts: In 55 counties, all NCTD representation was provided via such contracts. Since Fiscal Year 1998, OIDS has made a concerted effort to ensure that NCTD fiscal-year contracts are adequately staffed by giving weight, during the contracting process, to the number of law firms participating in an offer.
- (2) Staffed Satellite Offices: NCTD operated six satellite offices: Clinton, Guymon, Mangum, Norman (Cleveland County), Okmulgee and Sapulpa. These offices handled the entire caseload in 20 counties.

The Non-Capital Trial Division ended Fiscal Year 2015 (July 1, 2014 - June 30, 2015) with 27 attorneys. During Fiscal Year 2015, a satellite office staff attorney handled an average of 245 felony and youthful offender cases; 39 juvenile cases; 99 misdemeanor, traffic and wildlife cases, or an average of 383 total cases.

The National Legal Aide and Defender Association (NLADA) has long established standards, endorsed by the Criminal Justice Section of the American Bar Association, that no one attorney shall handle in any given 12 month period more than 150 felony cases, OR more than 200 juvenile cases, OR more than 400 misdemeanor and traffic cases. Further, the NLADA standards assume each respective attorney operates in only ONE courthouse.

Applying the NLADA standards, in Fiscal Year 2015, each NCTD satellite office staff attorney did the work of 2.07 attorneys. Moreover, each worked in several district courts in multiple counties. In fact, the largest satellite office region covers seven

courthouses and 7,544 square miles.

- (3) Conflict Counsel: Each year conflicts of interests arise in a certain number of county contract and satellite office cases and must be assigned to conflict-free counsel. During Fiscal Year 2015, NCTD assigned 918 new conflict cases to contracted conflict counsel. Conflicts arising out of county contracts account for 289 of those cases. New conflicts arising out of satellite offices account for 593 of those cases.
- (4) In FY-2010, NCTD was fortunate to receive federal funding for one roving attorney. On December 1, 2009, NCTD hired an attorney to cover conflict cases and provide overload relief to NCTD attorneys in Western Oklahoma. Although the federal funding expired late in FY-2011, this attorney has remained in her position as the NCTD Western Oklahoma roving conflict attorney. Based upon the success of the roving conflict attorney experience, an Eastern Oklahoma roving attorney position was added. The roving attorneys were assigned 95 new cases during FY-2015, many of which were serious felony cases. As FY-2015 ended, these attorneys carried 143 open cases in counties throughout Oklahoma.

Discussion

The OIDS Board awards fiscal-year contracts to private attorneys to provide non-capital trial defense services on a county-by-county basis. In response to the agency's solicitations each year, private attorneys offer to provide criminal defense services in felony, misdemeanor, traffic and (delinquent) juvenile cases in one or more counties for a flat annual rate. The contracting process is volatile, not only in terms of the number of offers, if any, received for any particular county, but also in terms of the cost of

any contract awarded. As a result, the agency's ability to provide contract coverage in many counties, especially the smaller, more rural ones, is unpredictable. Historically, the agency has spent one-third to one-half of its total budget on these fiscal-year contracts to provide non-capital legal representation.

When the agency is unable to obtain a fiscal-year contract for indigent criminal defense work in a county the Board has two options: (1) establish a satellite office with salaried attorneys to accept the System's appointments in the affected county under Section 1355.9 of the Indigent Defense Act or (2) assign the System's appointments in that county to private attorneys who have agreed to accept cases on a case-by-case basis at established agency rates (\$60/hr. for in-court legal services; \$40/hr. for out-of-court legal services) under Section 1355.8(D)(6) of the Indigent Defense Act.

In Fiscal Year 2015, the Non-Capital Trial Division's satellite offices served the following counties:

Norman Office

- Cleveland County

Clinton Office

- Beckham
- Custer
- Dewey
- Ellis
- Roger Mills
- Washita
- Woodward

Mangum Office

- Greer
- Harmon
- Kiowa
- Jackson
- Tillman

Okmulgee Office

- Okfuskee
- Okmulgee

Sapulpa Office

- Creek (3 courthouses)

Guymon Office

- Beaver
- Cimarron
- Texas
- Harper

Overall Caseload

In Fiscal Year 2015, the Non-Capital Trial Division received a total of 28,528 new county contract cases. County contractors discovered conflicts of interests in 361 of these cases. As a result, 325 of the conflict cases were assigned to contracted conflict counsel. Thirty-six of the conflict cases would have otherwise been assigned to a satellite office for coverage, but were instead assigned to the roving attorneys. Once the conflict and roving attorney cases were subtracted from all newly assigned cases, the county contractors retained a total of 28,167 new cases in Fiscal Year 2015. The county contractors carried another 9,009 cases into FY-2015 from previous fiscal years. Ultimately, the total FY-2015 county contract workload equaled 37,176 cases. It is important to note that Cleveland County was served by a county contract in FY-2014. In FY-2015, NCTD services were provided by a satellite office.

The Non-Capital Trial Division satellite offices reported a total of 652 conflict of interest cases. Five hundred ninety-three of these cases were assigned to contracted conflict counsel. Fifty-nine cases were assigned to the roving attorneys. With conflict cases subtracted from all newly assigned cases, the satellite offices handled 7,829 new cases in Fiscal Year 2015. The satellite offices carried another 2,505 cases into FY-2015 from previous fiscal years. Ultimately, the total FY-2015 satellite office workload totaled 10,334 cases.

The number of new NCTD cases, whether assigned to county contractors, satellite attorneys, conflict counsel or the roving attorneys, totaled 37,009.

The 48,964 cases handled by the Non-Capital Trial Division during Fiscal Year 2015 represents a three percent increase from the Fiscal Year 2014 workload. The overall NCTD workload has increased twenty-seven percent since Fiscal Year 2009.

CAPITAL (DEATH PENALTY) TRIAL REPRESENTATION

The OIDS Capital Trial Divisions are assigned the task of representing indigent defendants in cases where the State is seeking the death penalty. The two Divisions combined represent clients throughout the State, with the exception of Oklahoma and Tulsa Counties. Both Divisions operate as separate law firms for conflict purposes. If one Division cannot accept a court appointment because of a conflict of interest arising from another court appointment, the case is generally assigned to the other. If neither Division can accept the court appointment, OIDS contracts with private counsel to represent the client under Sections 1355.7 and 1355.13 of the Indigent Defense Act. In September 2007 a program was instituted by the agency shifted responsibility for defending selected first degree murder appointments to the Capital Trial Divisions.

CAPITAL TRIAL DIVISION NORMAN OFFICE

The Capital Trial Division – Norman represents defendants in capital cases filed in 46 counties and has primary responsibility for conflicts arising in the remaining counties regularly serviced by the Capital Trial Division – Tulsa.

TRIAL CASELOAD

The Capital Trial Division – Norman began Fiscal Year 2015 with 14 pending cases carried over from Fiscal Year 2014. The Division received new

appointments in seven cases during Fiscal Year 2015. By the end of the fiscal year, nine of those cases were concluded and closed. The remaining 12 open cases were carried over into Fiscal Year 2016. The total number of cases managed by the Division in Fiscal Year 2015 was 21.

FISCAL YEAR 2015 RESULTS

Jury Trials

The division had one exceedingly difficult case which was tried to a jury for nearly a month. The trial resulted in a death sentence.

Guilty Pleas

The Division represented six clients during Fiscal year 2015 who resolved their cases by entering guilty pleas. The results of those pleas are as follows:

- ◇ 4 First Degree Murder – Life Without Parole Sentence
- ◇ 1 First Degree Murder - Life With Parole Sentence
- ◇ 1 Conspiracy-20 years

FINAL RESULTS OF CASES CONCLUDED

Result	No. of Cases
Death	1
Life Without Parole	4
Life With Parole	1
Conspiracy	1
Returned to Non-Capital Division	1
Conflict	<u>1</u>
Total	9

CAPITAL TRIAL DIVISION TULSA

The Capital Trial Division - Tulsa has the primary responsibility for defending capital and non-capital first degree murder cases in 29

counties in the Eastern-Northeastern area of the State. The Division is further assigned to conflict capital and non-capital first degree murder cases in the remaining counties served by OIDS.

CASELOAD

Fiscal Year 2015 began with a carryover of 18 pending cases from the previous fiscal year. The Division opened 11 new cases during the fiscal year, bringing the total caseload for the year to 29 cases. The Division concluded eight cases, carrying over 21 cases into Fiscal Year 2016.

FISCAL YEAR 2015 RESULTS

In a first degree murder case tried to a jury, the jury deliberated for only two hours before acquitting the client. In another case, the defendant attacked one of his attorneys with a razor blade prior to the start of his sentencing hearing. Despite the attack (which injured the attorney), the division trial team proceeded with the sentencing hearing, resulting in the client receiving three life sentences upon his guilty plea. Division staff experienced great success in negotiating pleas on behalf of clients. These results and others were obtained as a result of the work, dedication and commitment of a talented group of lawyers, investigators and staff.

Jury and Trials

As noted above, the first degree murder case was tried to a jury during the fiscal year, resulting in an acquittal.

Guilty Pleas

Five first degree murder cases and/or charges were resolved by entering a guilty plea:

- ◇ 3 Life Without Parole Sentences
- ◇ Second Degree Murder – 50 years with all but the first 12 years suspended
- ◇ Accessory to Murder after the Fact- After

Former Conviction- 15 years

FINAL RESULTS OF CASES CONCLUDED

Results	No. of Cases
Acquittal- First Degree Murder	1
Life Without Parole	3
Finding of Incompetence to Stand Trial	1
Pled to Lesser Charge	2
Conflict of Interest	<u>1</u>
Total	8

Chapter 4

◆ Appellate Program

The Appellate Program consists of three Divisions which provide legal representation to agency clients who have a right under State law to appeal their convictions and sentences and who have been judicially determined to be unable to afford appellate counsel.

The right to an appeal in a criminal case is guaranteed by Article II, Section 6 of the Oklahoma Constitution, Section 1051 of Title 22 of the Oklahoma Statutes, and, in death penalty cases, Section 701.13 of Title 21 and Section 1089 of Title 22 of the Oklahoma Statutes. The right to counsel at State expense on direct appeal was established under the Federal Constitution by the United States Supreme Court in *Douglas v. California*, 372 U.S. 353 (1963). The right to counsel at State expense in capital post-conviction proceedings is found in Section 1089 of Title 22. The Appellate Program is appointed to represent clients in accordance with the Indigent Defense Act and 22 O.S. § 1089.

GENERAL APPEALS DIVISION (NON-CAPITAL APPEALS)

The General Appeals Division is appointed by the district courts of Oklahoma to represent clients on direct appeal from the trial court to the

Oklahoma Court of Criminal Appeals in cases where the defendant has been sentenced to a term of imprisonment up to life imprisonment without the possibility of parole.

The Division is appointed in 75 counties and in Oklahoma and Tulsa Counties when the public defenders have a conflict of interest or where the defendant was represented by retained counsel at trial and is judicially determined to be indigent on appeal. Legal services are provided by salaried attorneys and, under certain circumstances, by a private attorney. The cost of expert assistance and investigative services, if any, are funded in the Division budget. If the General Appeals Division has difficulties meeting court deadlines because of an unusually high number of court appointments, and adequate funding is available, the agency enters into contracts with private attorneys on a case-by-case basis to represent Division clients on appeal. If the Division is unable to accept court appointments because of a conflict of interest arising from a prior court appointment, the agency enters into a contract with a private attorney on a case-by-case basis to represent the client on appeal.

The filing of General Appeals Division cases

cannot be delayed because of the decision by the Tenth Circuit Court of Appeals in *Harris v. Champion*, 15 F.3d 1538 (10th Cir. 1994). The agency was a defendant in the *Harris* class action litigation, brought by agency clients who alleged prejudice from delays in filing their briefs on appeal. The Tenth Circuit held there is a rebuttable presumption of a Due Process violation if a non-capital appeal has not been decided within two years of judgment and sentence, making it mandatory for the appellate attorney to file a brief within the deadlines established by the Court of Criminal Appeals. Due to caseloads greatly exceeding nationally-recognized standards, which were caused in part by an agency-wide reduction-in-force at the beginning of Fiscal Year 2003, the agency received a supplemental appropriation during the last part of Fiscal Year 2005, which was annualized. The Division received a substantial portion of that appropriation to alleviate the Division's caseload. However, with the recent economic downturn and reduction in the agency's Fiscal Year 2010 appropriation, the Division's ability to assign contract overload appeals to private counsel has been severely curtailed.

The General Appeals Division began FY-2015 with 272 open cases in various stages of appeal before the Court of Criminal Appeals, and received appointments in 293 additional cases during the fiscal year. The Division closed 304 cases, ending the fiscal year with 261 open cases to be carried into Fiscal Year 2016. During the course of the fiscal year, the Division handled 565 cases.

Attorneys in the General Appeals Division filed Briefs-in-Chief on behalf of 238 clients during Fiscal Year 2015. Division attorneys appeared for three oral arguments before the Court of Criminal Appeals in fast-track appeals, filed 35 reply briefs, and filed two petitions for rehearing.

Of most of the 304 cases closed in 2015, 198, were closed because a final decision was reached by the Court of Criminal Appeals. In 35 of those cases, relief was obtained on behalf of the client. Other cases were closed for various reasons. Seventy appeals were closed after the appeal was dismissed, either at the client's request or because

the Court of Criminal Appeals lacked jurisdiction to hear them; seven cases were closed because the agency was not properly appointed to handle them; and four cases were closed because outside counsel was retained by the client. Additionally, 14 appeals were closed due to consolidation with other cases. Eleven cases were closed due to transfer to other agency divisions.

New cases were received from 52 of the State's 77 counties. 17% of the incoming caseload, or 50 cases, arose from Oklahoma and Tulsa counties. In 211 of the cases received in FY-2015, counsel at trial level was court-appointed, and 82 cases were handled at trial by privately-retained counsel or by the client pro se.

SUMMARY OF CASES CLOSED

<u>Reason for Closing</u>	<u># of Cases</u>	<u>%</u>
Decision of Court of Criminal Appeals	198	65
Contracted to Outside Counsel (Conflict & Backlog)	0	0
Rejected or Dismissed for Lack of Jurisdiction (Dismissed at Client's request)	70	23
OIDs not properly appointed/appeal out of time	7	2
Outside Counsel Retained by Client	4	1
Transferred to another Division	11	4
Other (Consolidated)	<u>14</u>	<u>5</u>
Total	304	100%

ANALYSIS OF CASES RECEIVED

Types of Appeals Lodged

Direct Appeals (Felony & Misdemeanors)	105	36
Revocation/Accelerations	126	43
Guilty Plea Appeals	51	18
Other (Juvenile, Responses to State Appeals)	<u>11</u>	<u>3</u>
Total	293	100%

Types of Crimes Appealed

Violent Offenses	83	28
Sex Offenses	57	20
Drug Offenses	99	34
Property Crimes	44	15
Other	<u>10</u>	<u>3</u>
Total	293	100%

The majority of the convictions in the cases appealed by the General Appeals Division were for drug offenses (99 cases). The second leading category of offenses appealed was violent crimes, including all degrees of murder and manslaughter, child abuse, assaults, robberies, kidnapping and first degree arson (83 cases). In addition, the subcategory of sexual offenses includes such violent offenses as rape and molestation, as well as related crimes such as failure to register as a sex offender (57 cases). Property crimes accounted for 44 cases.

The primary types of appeals received by the General Appeals Division were felony and misdemeanor direct appeals (105), revocations, accelerations and drug court terminations (126) and guilty pleas (51). Except for juvenile appeals, all non-capital appeals involve opening briefs of up to 50 pages in length. Other appeals involve juvenile and responses to State appeals of adverse rulings (11).

CAPITAL (Death Penalty) APPEALS

Although traditionally the Homicide Direct Appeals Division's primary responsibility was to represent capital defendants in their direct appeal,

the Division is also now responsible for the representation of indigent defendants who have been convicted of any form of homicide in Oklahoma District Courts in their appeals to the Oklahoma Court of Criminal Appeals. This includes defendants who have been convicted at jury trials, bench trials, and after entering pleas of guilty. A direct appeal in a capital case also includes filing a petition for a writ of certiorari to the United States Supreme Court if the case is affirmed by the Oklahoma Criminal Court of Appeals.

The Homicide Direct Appeals Division is subject to appointment by the district courts in 75 counties and in Oklahoma and Tulsa Counties when the public defender has a conflict of interest or where the defendant was represented by retained counsel at trial but is judicially determined to be indigent on appeal.

The Capital Post-Conviction Division is appointed to represent all death-sentenced defendants in post-conviction proceedings. By statute, the Capital Post-Conviction Division must represent all death-sentenced defendants, including those who were represented by the Oklahoma County or Tulsa County public defenders on direct appeal.

Since November 1995, post-conviction applications in a death penalty case are filed in the Court of Criminal Appeals while the capital direct appeal case is still pending. Before the statutory changes, post-conviction applications in a death penalty case were treated like non-capital post-conviction cases and filed in district court after the capital direct appeal case was decided by the Oklahoma Criminal Court of Appeals.

HOMICIDE DIRECT APPEALS DIVISION

CASELOAD

The Homicide Direct Appeals Division began Fiscal Year 2015 with two pending capital cases and 36 cases in which the client was convicted of some form of homicide. During the fiscal year, three capital cases, 40 non-capital homicide cases

and five other non-capital felony cases were opened. By the end of the year, 39 non-capital homicide cases were closed, leaving the Division with 47 active cases, consisting of five capital cases, 38 non-capital homicide cases and two non-capital felony cases.

STATEWIDE DISTRIBUTION

Following is a breakdown of the distribution of Division capital cases among the various counties:

COUNTY

Comanche	20%
LeFlore	20%
McClain	20%
Oklahoma	20%
Stephens	20%

The statewide distribution of the non-capital homicide cases handled by the Division is as follows:

COUNTY

Bryan	1%
Canadian	1%
Carter	1%
Cherokee	2%
Cleveland	10%
Comanche	6%
Custer	1%
Garfield	5%
Garvin	2%
Greer	2%
Haskell	1%
Hughes	1%
Jackson	1%
Kay	2%
Kiowa	2%
LeFlore	5%
Lincoln	1%
Love	1%
Mayes	1%
Muskogee	2%
Oklahoma	14%
Okmulgee	5%
Osage	2%
Pittsburg	1%
Pottawatomie	1%
Rogers	1%
Stephens	1%

Tulsa	20%
Wagoner	1%
Washington	1%
Woodward	5%

DISPOSITION OF CASES

Twenty-three non-capital homicide cases were affirmed by the Oklahoma Court of Criminal Appeals and were subsequently closed during Fiscal Year 2015. Three non-capital homicide cases were dismissed per the client's request. Twelve non-capital homicide cases were transferred to other divisions. One non-capital homicide case was closed when the client passed away in prison.

CAPITAL POST

CONVICTION DIVISION

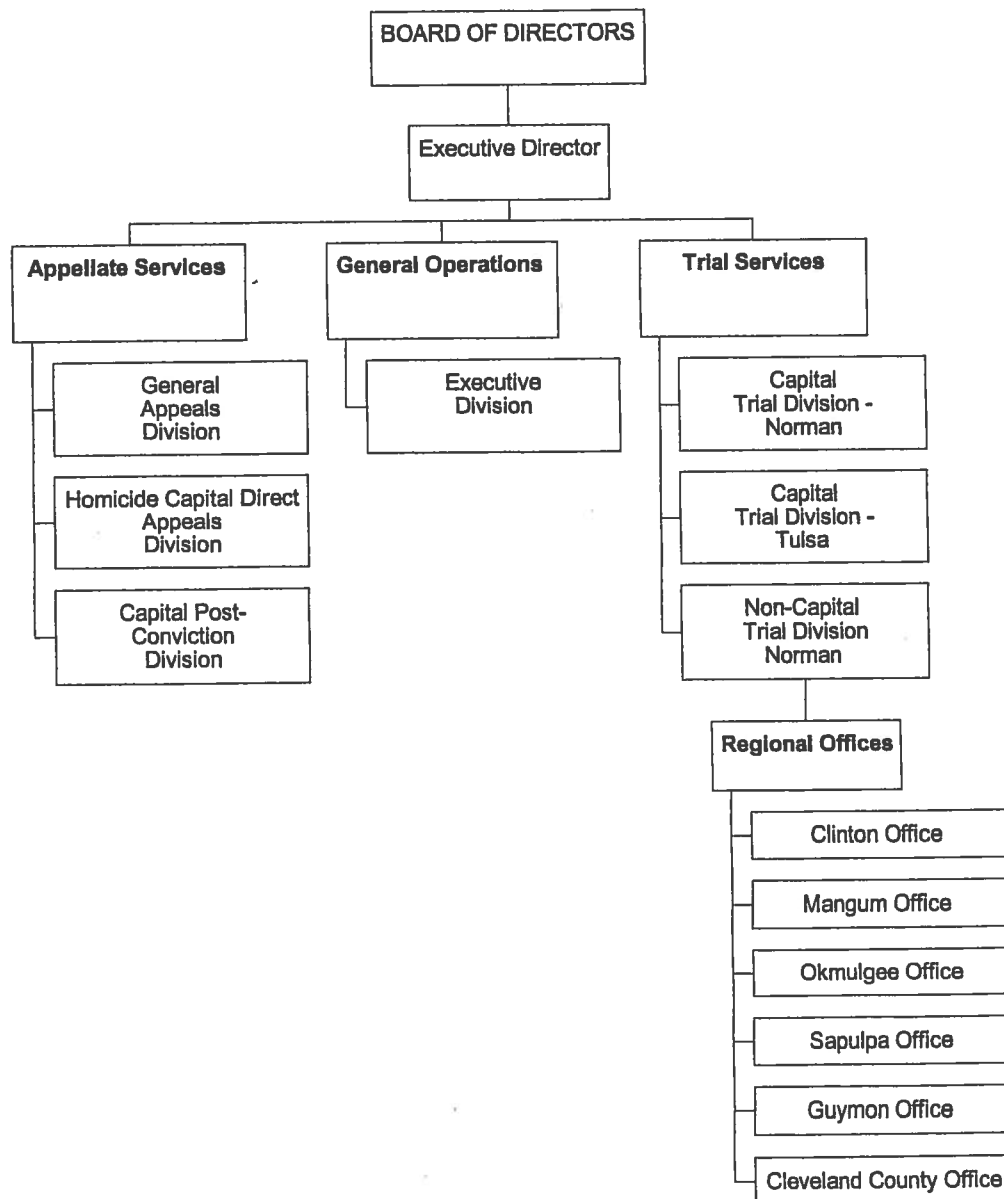
The primary mission of the Division continues to be representing clients in capital cases. This representation involves the investigation, preparation, and filing of an original application for post conviction relief and related motions. The Division strives to provide a thorough review of each case to ensure the clients have the best chance of obtaining relief when the cases move from state court into the federal system. In addition, the Division also handles conflict and overflow cases from the General Appeals Division and the Homicide Direct Appeals Division. When workload allows, the Division has been available to serve as co-counsel in overflow or conflict non-capital homicide cases from the capital trial divisions.

The Capital Post Conviction Division began Fiscal Year 2015 with 32 cases, representing five capital cases and 27 non-capital cases. During Fiscal Year 2015, the Division accepted three capital post conviction cases and 20 non-capital cases.

The Division closed no capital cases and 26 non-capital appeal cases in Fiscal Year 2015. As a result, the Division opened Fiscal Year 2016 with a total of 29 cases, comprised of seven capital post conviction cases, one capital direct appeal and 21 non-capital direct appeal cases.

Oklahoma Indigent Defense System

Organization Chart



OKLAHOMA INDIGENT DEFENSE SYSTEM
Non-Capital Trial Division
Actual FY-2015 Workload
July 1, 2014 through June 30, 2015

SUMMARY OF ALL CATEGORIES OF APPOINTMENTS

TYPE OF APPOINTMENT		FEL	JUV	MISD	TRAF	WL	YO	ALL
FY-2015 Contract <i>LESS</i> Conflicts and Rover Cases		18,898	1,466	7,387	371	5	40	28,167
Plus Contract Carry-Over from Prior Fiscal Years		6,211	534	2,130	118	0	16	9,009
Total Contract Workload		25,109	2,000	9,517	489	5	56	37,176
2015 Satellite Office <i>LESS</i> Conflicts and Rover Cases		5,107	704	1,921	96	0	1	7,829
Plus Satellite Office Carry-Over from Prior Fiscal Years		1,492	359	626	25	0	3	2,505
Total Satellite Office Workload		6,599	1,063	2,547	121	0	4	10,334
FY-2015 Conflicts	Contracts	246	9	67	3	0	0	325
	Satellite Offices	456	55	72	8	0	2	593
Conflicts Carryover from Prior Fiscal Years	Contract Counties	162	8	27	1	0	3	201
	Satellite Office Counties	150	5	32	4	0	1	192
FY-2015 Rover Cases	Contract Counties	29	1	6	0	0	0	36
	Satellite Office Counties	51	1	5	1	0	1	59
Rover Cases Carryover from Prior Fiscal Years		41	1	6	0	0	0	48
Total Conflicts and Rover Cases Workload		1,135	80	215	17	0	7	1,454
TOTAL FY-2015 NCT Workload		32,843	3,143	12,279	627	5	67	48,964