

OKLAHOMA

INDIGENT DEFENSE SYSTEM



2014 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

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JOE P. ROBERTSON
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September 26, 2014

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HONORABLE BRIAN BINGMAN
HONORABLE JEFFREY HICKMAN
HONORABLE TOM COLBERT
HONORABLE DAVID LEWIS

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, 2014, 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 2014 from the Governor and her staff, from the Legislature and from the Judiciary.

As we move forward in 2015, 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,

Joe P. Robertson
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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 56 counties. In 19 counties, staff attorneys handled the majority of the indigent caseload. Private attorneys handle the majority of the System's conflict cases and all overload 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 48,401 court appointments in Fiscal Year 2014. The numerical breakdown by division is as follows:

NON-CAPITAL TRIAL

<i>Staff</i>	8,076
<i>County Contracts</i>	38,530
<i>Conflicts</i>	937

CAPITAL TRIAL - NORMAN	26
CAPITAL TRIAL - TULSA	27
GENERAL APPEALS	648
HOMICIDE DIRECT APPEALS	93
CAPITAL POST CONVICTION	60
EXECUTIVE DIVISION CONFLICTS	
<i>Capital Trial Divisions</i>	3
<i>Capital Post Conviction</i>	1
TOTAL	48,401

with a staff consisting of five attorneys and one secretary.

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 2014 represent a substantial increase of 10% over the previous fiscal year, and an increase of 23% 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. The agency received an increase of \$400,000 in its appropriation for fiscal year 2015, sufficiently addressing the agency's concerns about continuing to provide constitutionally-sufficient legal representation to its court-appointed clients.

On April 15, 2014, due to unsuccessful contract negotiations regarding legal services provided in Cleveland County, the Board established the Cleveland County Satellite Office. The office, operated out of the agency's main Norman office, commenced operations on July 1, 2014,

Chapter 2

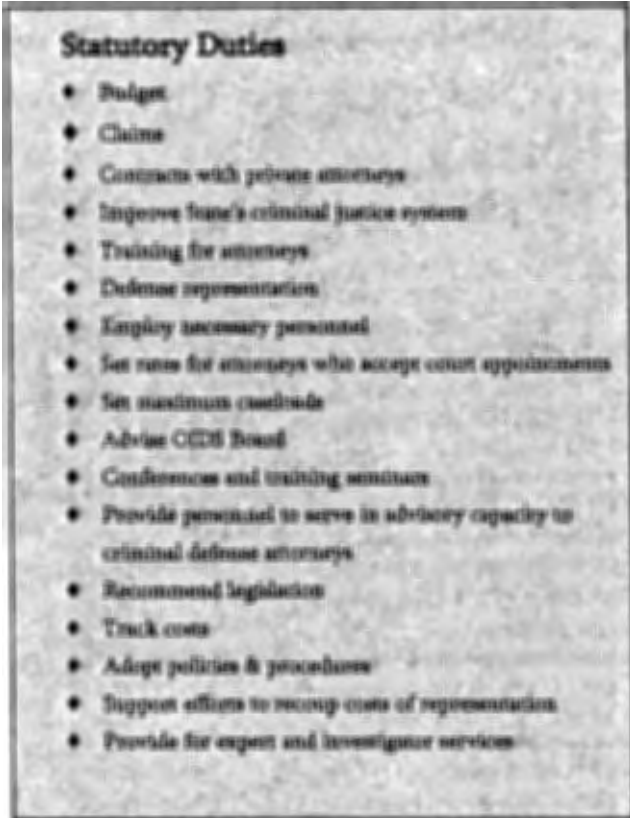
◆ General Operations Program

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 103 full-time equivalent staff members at its main offices in Norman, Clinton, Guymon, Mangum, Okmulgee and Sapulpa, with the number increasing to 109 upon the opening of the Cleveland County Satellite Office in Norman. 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 2014, the agency entered into 159 new professional services contracts with private attorneys and experts to provide defense services in court-appointed cases, in addition to administering 99 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.



26th and 27th in Tulsa. It included presentations on diverse topics as voir dire, blood stain interpretation, DUIs, competency to stand trial, direct and cross-examination and perfection of appeals.

EXECUTIVE CONFLICT CASELOAD

During Fiscal Year 2014, the Executive Division maintained contracts with outside attorneys for representation in a total of four conflict cases.

The year began with three pending district court death penalty cases. Two cases were closed, resulting in one case carried over into Fiscal Year 2015. The Division began Fiscal Year 2014 with one pending capital post conviction case, which was closed during the fiscal year.

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

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 2014, NCDT received 35,286 new appointments. NCTD's total FY-2014

caseload, which includes cases carried forward from previous fiscal years, equaled 47,543 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 and over-load 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 one roving attorney assigned to Western Oklahoma.

In Fiscal Year 2014, the Division's caseload was handled as follows:

- (1) Flat-rate Fiscal Year Contracts: In 56 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 five satellite offices: Clinton, Mangum, Okmulgee, Sapulpa and Guymon. These offices handled the entire caseload in 19 counties.

The Non-Capital Trial Division ended Fiscal Year 2014 (July 1, 2013 - June 30, 2014) with 22 attorneys. During Fiscal Year 2014, a satellite office staff attorney handled an average of 233 felony cases, 32 juvenile cases, 98 misdemeanor, traffic and wildlife cases, or an average of 363 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 2014, each NCTD satellite office staff attorney did the work of 1.96 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/Overload 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 2014, NCTD assigned 696 conflict cases to contracted conflict counsel. Conflicts arising out of county contracts account for 368 of those cases. Conflicts arising out of satellite offices account for 328 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. The roving attorney was assigned 89 new cases during FY-2014, many of which were serious felony cases. As FY-2014 ended, this attorney carried 48 open cases in many Western Oklahoma counties.

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 2014, the Non-Capital Trial Division's satellite offices served the following counties:

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 2014, the Non-Capital Trial Division received a total of 29,476 new county contract cases. County contractors discovered conflicts of interests in 381 of these cases. As a result, 368 of the conflict cases were assigned to contracted conflict counsel. Thirteen (13) of the conflict cases would have otherwise been assigned to a satellite office for coverage, but were instead assigned to the Western Oklahoma roving attorney. Once the conflict cases were subtracted from all newly assigned cases, the county contractors retained a total of 29,095 new cases in Fiscal Year 2014. The county contractors carried another 9,435 cases into FY-2014 from previous fiscal years. Ultimately, the total FY-2014 county contract workload equaled 38,530 cases.

The Non-Capital Trial Division satellite offices reported a total of 404 conflict of interest cases. Three hundred twenty-eight (328) of these cases were assigned to contracted conflict counsel. Seventy-six (76) cases were assigned to the Western Oklahoma roving attorney. With conflict cases subtracted from all newly assigned cases, the satellite offices handled 5,406 new cases in Fiscal Year 2014. The satellite offices carried another 2,549 cases into FY-2014 from previous fiscal years. Ultimately, the total FY-2014 satellite office workload totaled 7,955 cases.

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 2014 with 19 pending cases carried over from Fiscal Year 2013. The Division received new appointments in seven cases during Fiscal Year 2014. By the end of the fiscal year, 12 of those cases were concluded and closed; the remaining 14 cases were carried over into Fiscal Year 2015. The total number of cases managed by the Division in Fiscal Year 2014 was 26.

In an effort to meet the overall agency mission of providing the highest quality of representation to indigent defendants, using the most cost-effective and efficient means possible, the Division

continued to accept appointments for non-capital clients charged with murder in the first degree. The Division continues to regularly maintain close contact with both the Capital Trial Division – Tulsa and Non-Capital Trial Division to ensure all indigent defendants facing first-degree murder charges receive representation quickly, and to efficiently resolve any conflict issues arising in multiple-defendant cases. The results set forth below are a reflection of the outstanding work by the Division's attorneys, investigators and support staff.

FISCAL YEAR 2014 RESULTS

Jury and Non-Jury Trials

Result of one case tried in Fiscal Year 2014:

- ◇ 1 jury trial resulting in a life sentence

Guilty Pleas

The Division represented six clients during Fiscal year 2014 who chose to resolve their cases by entering guilty pleas. The results of those pleas are as follows:

- ◇ 3 First Degree Murder – Life Without Parole Sentence
- ◇ 2 First Degree Murder - Life With Parole Sentence
- ◇ 1 Second Degree Murder- Sentence of 32 years

FINAL RESULTS OF CASES CONCLUDED

Result	No. of Cases
Death	0
Life Without Parole	3
Life With Parole	3
Murder II- Number of Years	1
Not Guilty by Reason of Insanity	3
Returned to Non-Capital Division	1
Client Withdrew Motion Seeking to Withdraw Guilty Plea	1

Total 12

- ◇ 1 Competency Trial to the Court- Incompetent and Unable to Achieve Competency.

***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 2014 began with a carryover of 18 pending cases from the previous fiscal year. The Division opened nine new cases during the fiscal year, bringing the total caseload for the year to 27 cases. The Division concluded nine cases, carrying over 18 cases into Fiscal Year 2015.

FISCAL YEAR 2014 RESULTS

During this fiscal year, a death sentence was imposed at trial on a Division client, the first in nine years. In another case, however, through exceptional victim outreach and defense investigation, the prosecution moved to dismiss all charges. Due to excellent lawyering and Division support, another client was found incompetent to proceed to trial, with the criminal charges dismissed. Division staff further 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 Bench Trials

Result of case tried in 2014

- ◇ 1 First Degree Murder- Death Sentence
- ◇ 1 First Degree Murder - Life Without Parole.

Guilty Pleas

The Division represented three clients during Fiscal year 2014 where cases were resolved by a plea. The results of those pleas are as follows:

- ◇ 1 First Degree Murder – 35 years in with the remainder suspended
- ◇ 1 First Degree Murder – Life with Parole
- ◇ 1 First degree Manslaughter- 25 years

FINAL RESULTS OF CASES CONCLUDED

Results	No. of Cases
Death Sentences	1
Life Without Parole	1
Life With Parole	1
Finding of Incompetence to Stand Trial	1
1 st Degree Murder- 35 years	1
1 st Degree Manslaughter- 25 years	1
Conflict of Interest	1
Charges Dismissed	1
Closed-No Action Taken	1
Total	9

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.

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.

The General Appeals Division began FY-2014 with 322 open cases in various stages of appeal before the Court of Criminal Appeals, and received appointments in 326 additional cases during the fiscal year. The Division closed 375 cases, ending the fiscal year with 273 open cases to be carried into Fiscal Year 2015. During the course of the fiscal year, the Division handled 648 cases.

Attorneys in the General Appeals Division filed Briefs-in-Chief on behalf of 245 clients during Fiscal Year 2014. Division attorneys appeared for seven oral arguments before the Court of Criminal Appeals in fast track cases and filed 22 reply briefs and two petitions for rehearing.

The Division closed 375 cases during the year. Of most of the cases closed, 260 were closed because a final decision was reached by the Court of Criminal Appeals. In 37 of those cases, relief was obtained on behalf of the client. Other cases were closed for various reasons. Six cases were closed by the Division when they were transferred within the agency to the OIDS Homicide Direct Appeals or Capital Post-Conviction Divisions for

briefing. Seventy-two 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; nine cases were closed because the System was not properly appointed to handle it; and one case was closed because outside counsel was retained by the client. Additionally, 13 appeals were consolidated with other cases.

New cases were received from 62 of the State's 77 counties. Almost 17% of the incoming caseload, or 54 cases, arose from Oklahoma and Tulsa counties. In 234 of the cases received in FY-2014, counsel at trial level was court-appointed, and 92 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	260	70
Dismissed for Lack of Jurisdiction at Client's request	72	19
OIDS not properly appointed	9	2
Outside Counsel Retained by Client	1	1
Transferred to another Division	6	2
Contracted outside and completed	14	3
Other (Consolidated)	13	3
Total	375	100%

ANALYSIS OF CASES RECEIVED

Types of Appeals Lodged

Direct Appeals (Felony & Misdemeanors)	138	42
Revocation/Accelerations	126	39

Guilty Plea Appeals	57	17
Other (Juvenile, State Appeals)	<u>5</u>	<u>2</u>
Total	326	100%

Types of Crimes Appealed

Violent Offenses	110	34
Sex Offenses	69	21
Drug Offenses	99	30
Property Crimes	38	12
Other	<u>10</u>	<u>3</u>
Total	326	100%

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.

Legal services are provided by salaried attorneys and investigators.

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 2014 with two pending capital cases and 39 cases in which the client was convicted of some form of homicide. During the fiscal year, 1 capital case, 48 new non-capital homicide cases and 3 other non-capital felony cases were opened. By the end of the year, one capital case and 54 non-capital homicide cases were closed, leaving the Division with 38 active cases, consisting of two capital cases, 33 non-capital homicide cases and three non-capital felony cases.

STATEWIDE DISTRIBUTION

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

COUNTY

McClain	50%
Comanche	50%

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

COUNTY

Adair	1%
Atoka	1%
Beckham	2%
Canadian	3%
Carter	1%

CAPITAL POST CONVICTION DIVISION

Cherokee	2%
Cleveland	4%
Comanche	8%
Custer	1%
Garfield	1%
Grady	2%
Greer	1%
Jackson	2%
Kay	1%
Kiowa	1%
LeFlore	1%
Lincoln	2%
Logan	1%
Mayes	1%
Muskogee	3%
Okfuskee	1%
Oklahoma	17%
Osage	1%
Ottawa	2%
Pawnee	2%
Pittsburg	1%
Pontotoc	1%
Pottawatomie	3%
Pushmataha	1%
Sequoyah	2%
Stephens	1%
Tulsa	19%
Wagoner	2%
Washington	5%
Woodward	3%

DISPOSITION OF CASES

Thirty non-capital homicide cases were affirmed by the Oklahoma Court of Criminal Appeals and were subsequently closed during Fiscal Year 2014. One non-capital homicide case was reversed and remanded for a new trial. One non-capital homicide case was dismissed per the client's request. Twenty-one non-capital homicide cases were transferred to other divisions. One non-capital homicide case was transferred to private counsel. One capital case was closed during Fiscal Year 2014, after being affirmed by the Court of Criminal Appeals and denied certiorari by the United States Supreme Court.

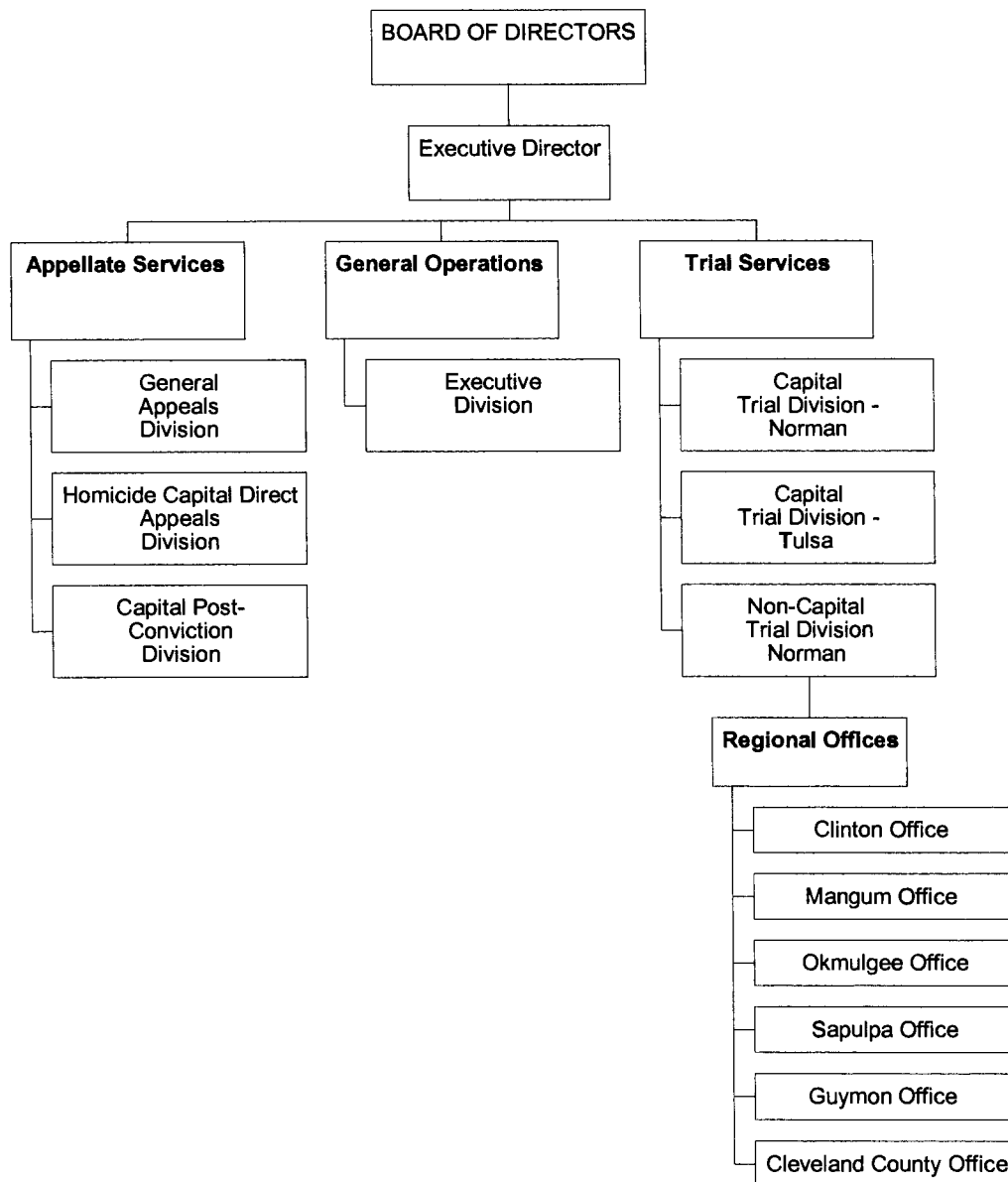
The primary mission of the Division continues to be representing clients in capital cases. This representation involves the investigation, preparation, and filing of an original application for post conviction relief and related motions. The Division strives to provide a thorough review of each case 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 2014 with 31 cases, representing 6 capital cases and 25 non-capital cases. During Fiscal Year 2014, the Division accepted one capital post-conviction, one capital direct appeal, and 27 non-capital cases.

During Fiscal Year 2014, three capital cases were closed. Two of those cases were transferred to federal habeas counsel after relief was denied by the Oklahoma Court of Criminal Appeals, one case was closed after the Oklahoma County District Court sentenced the client to a sentence less than the death penalty. In addition, 25 non-capital appeal cases were closed during Fiscal Year 2014. As a result, the Division opened Fiscal Year 2015 with a total of 32 cases, comprised of four capital post conviction cases, one capital direct appeal and 27 non-capital direct appeal cases.

Oklahoma Indigent Defense System

Organization Chart



OKLAHOMA INDIGENT DEFENSE SYSTEM
Non-Capital Trial Division
Actual FY-2014 Workload
July 1, 2013 through June 30, 2014

FY-2014 Contract LESS Conflicts and Viol Cases		19,287	1,631	7,728	392	11	46	29,095
Plus Contract Carry-Over from Prior Fiscal Years		6,481	588	2,272	84	4	6	9,435
Total Contract Workload		25,768	2,219	10,000	476	15	52	38,530
2014 Satellite Office LESS Conflicts and Viol Cases		3,616	278	1,365	140	2	5	5,406
Plus Satellite Office Carry-Over from Prior Fiscal Years		1,498	414	577	55	1	4	2,549
Total Satellite Office Workload		5,114	692	1,942	195	3	9	7,955
FY-2014 Conflicts	Contracts	297	11	52	3	0	5	368
	Satellite Offices	273	10	40	5	0	0	328
Conflicts Carryover from Prior Fiscal Years	Contract Counties	83	3	12	1	0	0	99
	Satellite Office Counties	111	10	19	0	0	2	142
FY-2014 Viol Cases	Contract Counties	11	0	2	0	0	0	13
	Satellite Office Counties	60	1	15	0	0	0	76
Viol Case Carryover from Prior Fiscal Years		29	0	3	0	0	0	32
Total Conflicts and Viol Cases Workload		864	35	143	9	0	7	1,058
TOTAL FY-2014 NCT Workload		31,746	2,946	12,085	680	18	68	47,543