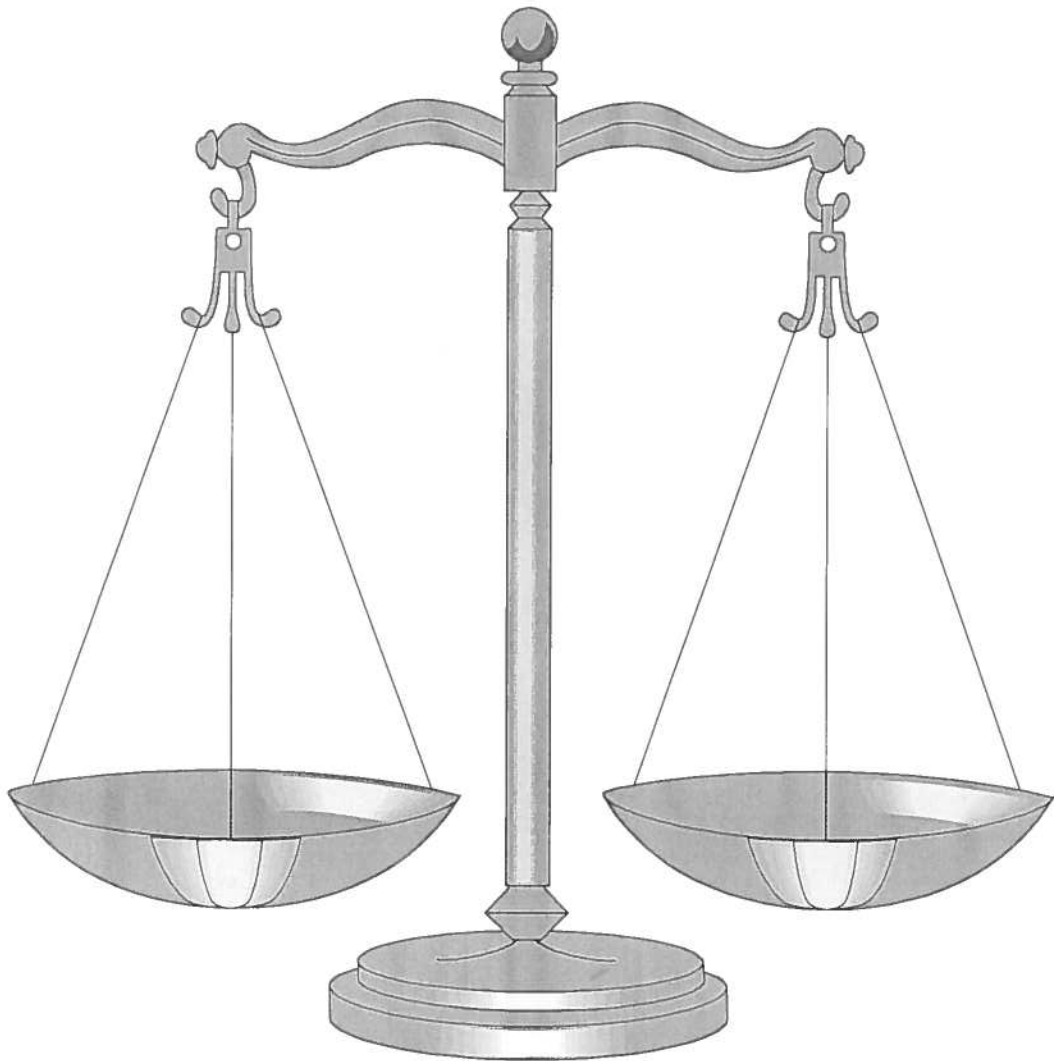


OKLAHOMA

INDIGENT DEFENSE SYSTEM



2016 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 16, 2016

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

Enclosed is a report concerning the duties, activities and accomplishments of the Oklahoma Indigent Defense System for the fiscal year ending June 30, 2016, in accordance with 22 O.S. § 1355.3(B) and 22 O.S. § 1355.4(C)(14).

As we move forward in 2017, 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 further 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 and the interests of justice are protected.

Sincerely,

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. 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 58,025 court appointments in Fiscal Year 2016. The numerical breakdown by division is as follows:

NON-CAPITAL TRIAL	
<i>Staff</i>	12,632
<i>County Contracts</i>	43,159
<i>Conflicts</i>	1,527
CAPITAL TRIAL - NORMAN	17
CAPITAL TRIAL - TULSA	27
GENERAL APPEALS	525
HOMICIDE DIRECT APPEALS	86

CAPITAL POST CONVICTION	48
EXECUTIVE DIVISION CONFLICTS	
<i>Capital Trial Divisions</i>	3
<i>General Appeals Division</i>	1
TOTAL	58,025

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.

Agency caseloads have continued to substantially increase in recent years. The total agency caseload number of 58,025 for Fiscal Year 2016 represents an increase of 17% over its caseload for the previous fiscal year, 32% since Fiscal Year 2013, and 47% 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 started Fiscal Year 2016 with an appropriation of \$16,079,722, the same amount of appropriated funds it started the previous fiscal year. However, due to a statewide revenue failure, OIDS, along with other state agencies, received funding reductions totaling \$1,125,581 during Fiscal Year 2016, although \$414,849 of that amount was returned to the agency during the current fiscal year. The general appropriation bill for Fiscal Year 2017, passed during the 2016 Oklahoma legislative session, fixed the agency's Fiscal Year 2017 appropriation at the substantially reduced amount of \$14,954,141.

The loss of over \$1.8 million in funding during fiscal years 2016 and 2017 has jeopardized the agency's ability to continue to provide

constitutionally effective legal representation to its court-appointed clients. The fallout from this funding crisis, absent relief, will include the release of defendants awaiting trial in certain cases if no counsel can be provided, the reversal of various cases in which necessary expert services could not be funded, and either preventing death penalty cases from going forward or causing subsequent case reversals where required services could not be provided.

The agency will seek to obtain a supplemental appropriation during the upcoming legislative session, as well as restoration of funding it has lost over the past year, to again ensure the State of Oklahoma comports with federal and state constitutional requirements in providing defense services to indigent criminal defendants.

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 and expert service providers. At the end of the fiscal year, OIDS employed 112 full-time equivalent staff members at its main offices in Norman and its satellite offices in Clinton, Guymon, Mangum, Okmulgee and Sapulpa. Further, three employees of the Oklahoma Office of Management and Enterprise Services, who provide information technology services to the agency, work in the agency's Norman Office as well.

In Fiscal Year 2016, the agency entered into 158 new professional services contracts with private attorneys and expert service providers to furnish defense services in court-appointed cases, in addition to administering 129 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

23rd and 24th in Tulsa. It included presentations on such diverse topics as mitigation in criminal cases, effective use of the evidence code and the use of digital data in cases.

EXECUTIVE CONFLICT CASELOAD

During Fiscal Year 2016, the Executive Division maintained contracts with outside attorneys for representation in a total of four conflict cases.

The year began with two pending district court death penalty cases and one non-capital direct appeal. During the fiscal year, one new capital case was opened, while two capital cases and the single appeal were closed. One capital case was carried over into Fiscal Year 2017.

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. NCTD represents the agency's largest group of clients. In Fiscal Year 2016, NCDT received 39,976 new appointments. NCTD's total FY-2016 caseload,

which includes cases carried forward from previous fiscal years, equaled 57,318 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 one roving attorney.

In Fiscal Year 2016, 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 2016 (July 1, 2015 - June 30, 2016) with 29 attorneys. During Fiscal Year 2016, a satellite office staff attorney handled an average of 287 felony and youthful offender cases, 39 juvenile cases, and 106 misdemeanor, traffic and wildlife cases, or an average of 432 total cases.

The National Legal Aid 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 2016, each NCTD satellite office staff attorney did the work of 2.6 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 interest arise in a certain number of county contract and satellite office cases and must be assigned to conflict-free counsel. During Fiscal Year 2016, NCTD assigned 1,069 conflict cases to contracted conflict counsel. Conflicts arising out of county contracts account for 408 of those cases. Conflicts arising out of satellite offices account for 661 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 roving conflict attorney. This attorney is highly experienced and is assigned complicated cases. The roving attorney was assigned 47 new cases during Fiscal Year 2016, most of which were serious felony cases. As Fiscal Year 2016 ended, this attorney carried 106 open cases in many counties throughout Western 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 2016, 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 2016, the Non-Capital Trial Division received a total of 30,816 new county contract cases. County contractors discovered conflicts of interests in 426 of these cases. As a result, 408 of the conflict cases were assigned to contracted conflict counsel. Eighteen of the conflict cases would have otherwise been assigned to a satellite office for coverage, but were instead assigned to the roving attorney. Once the conflict cases were subtracted from all newly assigned cases, the county contractors retained a total of 30,390 new cases in Fiscal Year 2016. The county contractors carried another 12,769 cases into FY-2016 from previous fiscal years. Ultimately, the total Fiscal Year 2016 county contract workload equaled 43,159 cases.

The Non-Capital Trial Division satellite offices reported a total of 690 conflict of interest cases. Six Hundred sixty-one of these cases were assigned to contracted conflict counsel. Twenty-nine cases were assigned to the roving attorney. With conflict cases subtracted from all newly assigned cases, the satellite offices handled 8,470 new cases in Fiscal Year 2016. The satellite offices carried another 4,056 cases into Fiscal Year 2016 from previous fiscal years. Ultimately, the total Fiscal Year 2016 satellite office workload totaled 12,526 cases.

The number of new NCTD cases, whether assigned to county contractors, satellite attorneys, conflict counsel or the roving attorney, totaled 39,976. The 57,318 cases handled by the Non-Capital Trial Division during Fiscal Year 2016 represent a 17% caseload increase from the previous fiscal year, a 33% increase since Fiscal Year 2013, and a 48% increase 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***

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 2016 with 12 pending cases carried over from Fiscal Year 2015. The Division received new appointments in five cases during the year. By the

end of Fiscal Year 2016, four of those cases were concluded and closed; the remaining 13 cases were carried over into Fiscal Year 2017. The total number of cases handled by the Division in Fiscal Year 2016 was 17.

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.

FISCAL YEAR 2016 RESULTS

Non-Jury Trials

- ◇ 1 bench trial regarding competency to stand trial

Guilty Pleas

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

- ◇ 2 First Degree Murder – life without parole sentence
- ◇ 1 First Degree Murder - amended to Robbery II with 4 years incarceration
- ◇ 1 Second Degree Murder- sentence of 25 years incarceration and 15 years suspended

Cases Concluded

Result	No. of Cases
Death	0
Life Without Parole	2
Murder II- Number of Years	1
Amended to Robbery II	1
Total	4

*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.

TRIAL CASELOAD

Fiscal Year 2016 began with a carryover of 20 pending cases from the previous fiscal year. The Division opened seven new cases during the fiscal year, bringing the total caseload for the year to 27 cases. The Division concluded six cases, carrying over 21 cases into Fiscal Year 2017.

FISCAL YEAR 2016 RESULTS

Guilty Pleas

The Division represented four clients where cases were resolved by a plea. The results of those pleas are as follows:

- ◇ 1 First Degree Murder - reduced to Manslaughter
- ◇ 3 First Degree Murder – life with parole

Cases Concluded

Results	No. of Cases
Death Sentences	0
Life Without Parole	3
Pled to Lesser Charge	1
Charges Dismissed	1
Hired Private Counsel	1
Total	6

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 Division is unable to accept court appointments because of a conflict of interest arising from a prior court appointment, the case will be transferred to another division within the appellate program to provide representation.

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.

The General Appeals Division began Fiscal Year 2016 with 261 open cases in various stages of appeal before the Court of Criminal Appeals, and received appointments in 264 additional cases during the fiscal year. The Division closed 269 cases, ending the fiscal year with 256 open cases to be carried into Fiscal Year 2017. During the course of the fiscal year, the Division handled 525 cases.

Attorneys in the General Appeals Division filed Briefs-in-Chief on behalf of 212 clients during the fiscal year. Division attorneys appeared for three oral arguments before the Court of Criminal Appeals in fast track appeals, filed 23 reply briefs, and filed one petition for rehearing.

The Division closed 269 cases during the fiscal year. The majority of closed cases, 214, were closed because a final decision was reached by the Court of Criminal Appeals. In 32 of those cases, relief was obtained on behalf of the client. Other cases were closed for various reasons. Thirty-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 agency was not properly appointed to handle them; and six cases were closed because outside counsel was retained by the client. Additionally, three appeals were closed due to consolidation with other cases. Five cases were closed due to transfer to other agency divisions.

New cases were received from 56 of the State's 77

counties. Twenty percent of the incoming caseload, or 49 cases, arose from Oklahoma and Tulsa counties. In 179 of the cases received during the fiscal year, counsel at trial level was court-appointed, while 85 cases were handled at trial by privately-retained counsel or by the client *pro se*.

SUMMARY OF CASES CLOSED

<i>Reason for Closing</i>	<i># of Cases</i>	<i>%</i>
Decision of Court of Criminal Appeals	214	80
Rejected or dismissed for lack of jurisdiction (dismissed at client's request)	32	12
OIDS not properly appointed/appeal out of time	9	3
Outside counsel retained by client	6	2
Transferred to another division	5	2
Other (Consolidated)	3	1
Total	269	100%

ANALYSIS OF CASES RECEIVED

<i>Types of Appeals Lodged</i>	<i># of Cases</i>	<i>%</i>
Direct appeals (felony and misdemeanors)	117	44
Revocation/accelerations	88	33
Guilty plea appeals	50	19
Other (juvenile, responses to state appeals)	9	4
Total	264	100%

<i>Types of Crimes Appealed</i>	<i># of Cases</i>	<i>%</i>
Violent offenses	90	34
Sex offenses	50	19

Drug offenses	84	32
Property crimes	34	13
Other (DUI, escape, state appeals or unknown)	6	2
Total	264	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 2016 with five pending capital cases, 38 cases in which the client was convicted of some form of homicide, and four non-capital felony cases. During the fiscal year, 33 new non-capital homicide cases and six non-capital felony cases were opened. By the end of the year, 38 non-capital homicide cases and five non-capital felony cases were closed, leaving the Division with 43 active cases, consisting of five capital cases, 33 non-capital homicide cases and five non-capital felony cases.

STATEWIDE DISTRIBUTION

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

County

Comanche	1
LeFlore	1
McClain	1
Oklahoma	1
Stephens	1

The statewide distribution of the Division’s non-capital cases is as follows:

County

Bryan	1
Caddo	1
Carter	1
Cherokee	1
Cleveland	7
Comanche	4
Custer	1
Delaware	1
Garfield	2

Garvin	3
Grady	1
Hughes	1
Kay	1
Kiowa	1
Lincoln	2
Love	1
Marshall	1
Mayes	1
Muskogee	1
Okfuskee	1
Oklahoma	14
Osage	1
Pawnee	1
Pittsburg	1
Pottawatomie	2
Rogers	1
Seminole	1
Sequoyah	1
Tulsa	21
Wagoner	2
Washita	1
Woodward	2

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 2016 with 29 active cases, representing seven capital post conviction cases, one capital direct appeals and 21 non-capital appeal cases. During the year, the Division accepted one capital post-conviction and 18 non-capital direct appeals. The Division closed two related capital cases resulting from the death of the client from natural causes, and closed 18 non-capital appeal cases during the fiscal year. The Division carried over a total of 28 cases into Fiscal Year 2017, comprised of six capital post-conviction cases, one capital direct appeal and 21 non-capital direct appeal cases.

DISPOSITION OF CASES

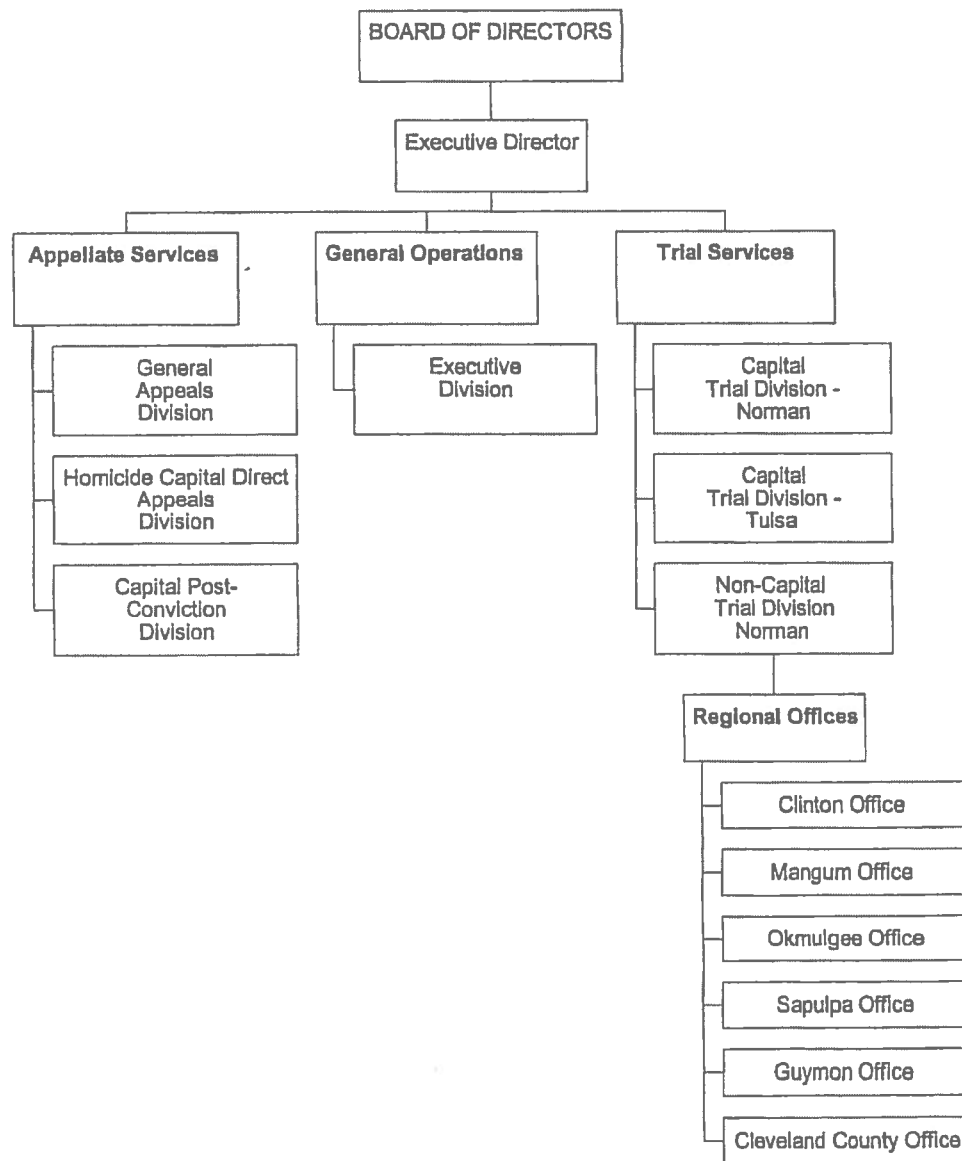
Twenty-three non-capital homicide cases were affirmed by the Oklahoma Court of Criminal Appeals and were subsequently closed during the year. The Oklahoma Court of Criminal appeals rejected the State’s appeal and upheld the dismissal of murder charges at the trial level in two non-capital homicide cases. A writ of certiorari was granted in one non-capital homicide case with the case remanded for further proceedings. One non-capital homicide case was remanded to the district court for a resentencing hearing. Fifteen non-capital homicide cases were transferred to other divisions.

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

Oklahoma Indigent Defense System

Organization Chart



OKLAHOMA INDIGENT DEFENSE SYSTEM

Non-Capital Trial Division

Actual FY-2016 Workload

July 1, 2015 through June 30, 2016

SUMMARY OF ALL CATEGORIES OF APPOINTMENTS

TYPE OF APPOINTMENT		FEL	JUV	MISD	TRAF	WL	YO	ALL
FY-2016 Contract <i>LESS</i> Conflicts and Rover Cases		20,755	1,648	7,433	469	17	68	30,390
Plus Contract Carry-Over from Prior Fiscal Years		9,003	491	3,066	167	9	33	12,769
Total Contract Workload		29,758	2,139	10,499	636	26	101	43,159
2016 Satellite Office <i>LESS</i> Conflicts and Rover Cases		5,815	474	2,041	136	0	4	8,470
Plus Satellite Office Carry-Over from Prior Fiscal Years		2,505	664	850	31	0	6	4,056
Total Satellite Office Workload		8,320	1,138	2,891	167	0	10	12,526
FY-2016 Conflicts	Contracts	328	4	73	3	0	0	408
	Satellite Offices	506	59	87	4	0	5	661
Conflicts Carryover from Prior Fiscal Years	Contract Counties	128	8	32	0	0	0	168
	Satellite Office Counties	223	24	41	1	0	1	290
FY-2016 Rover Cases	Contract Counties	10	1	7	0	0	0	18
	Satellite Office Counties	28	0	1	0	0	0	29
Rover Cases Carryover from Prior Fiscal Years		47	1	10	1	0	0	59
Total Conflicts and Rover Cases Workload		1,270	97	251	9	0	6	1,633
TOTAL FY-2016 NCT Workload		38,476	3,310	13,473	805	26	112	57,318