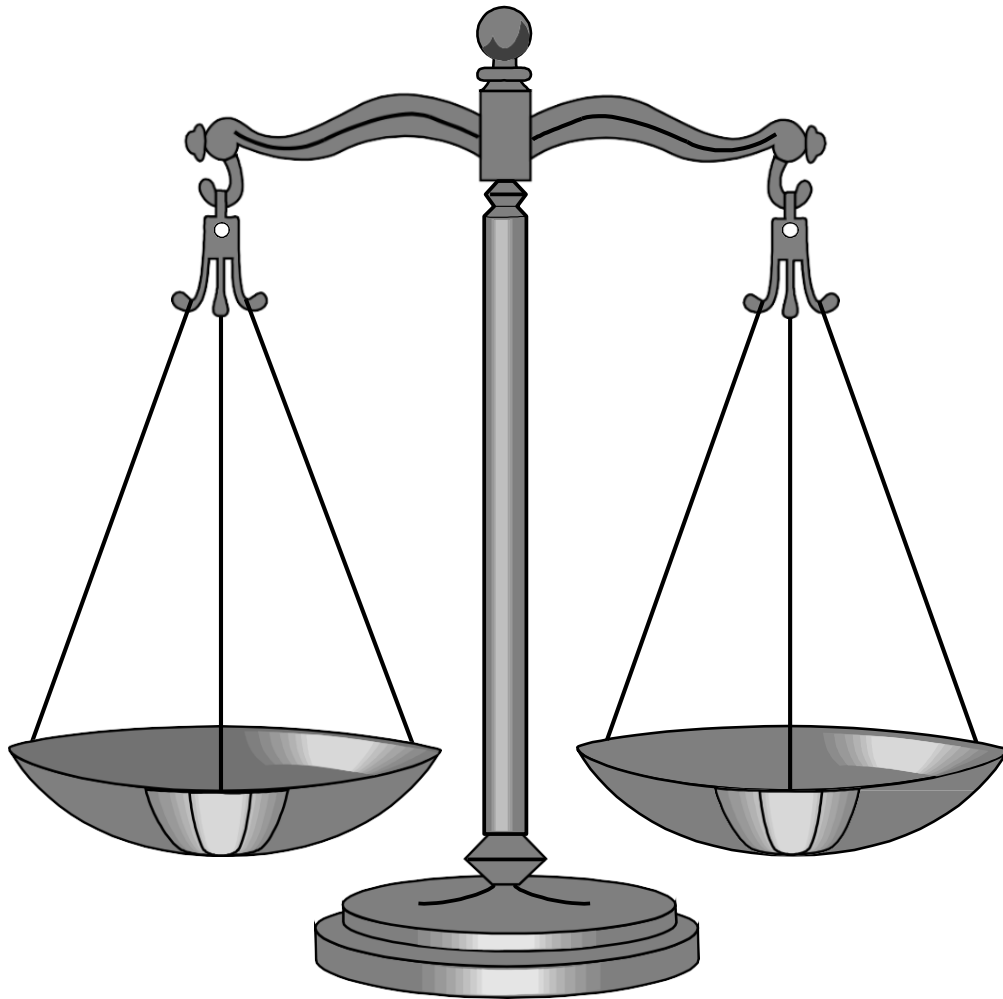


# OKLAHOMA

## INDIGENT DEFENSE SYSTEM



## 2022 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*

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## *Indigent Defense System*



J. KEVIN STITT  
GOVERNOR

TRICIA EVEREST  
SECRETARY OF PUBLIC SAFETY

CHARLES TIM LAUGHLIN  
Executive Director

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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.

CHARLES TIMOTHY LAUGHLIN  
EXECUTIVE DIRECTOR



J. KEVIN STITT  
GOVERNOR

STATE OF OKLAHOMA  
OKLAHOMA INDIGENT DEFENSE SYSTEM

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October 7, 2022

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TO THE HONORABLE J. KEVIN STITT  
HONORABLE GREG TREAT  
HONORABLE CHARLES MCCALL  
HONORABLE RICHARD DARBY  
HONORABLE SCOTT ROWLAND

Enclosed is a report concerning the duties, activities, and accomplishments of the Oklahoma Indigent Defense System for the fiscal year ending June 30, 2022, 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 the agency received during Fiscal Year 2022 from the Governor and his staff, from the Legislature, and from the Judiciary.

As we move forward in 2022, we thank the attorneys, investigators, administrators, support staff, and expert service providers for their commitment to our mission and their unwavering dedication to our clients. We also thank the private attorneys who serve our clients as OIDS contractors. It is only through the efforts of all these individuals that the right to counsel and the interests of justice are protected.

Sincerely,

A handwritten signature in cursive script that reads "Charles Laughlin".

Charles "Tim" Laughlin  
Executive Director

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(In Alphabetical Order)

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William Burkett	Henry A. Meyer, III
Henry Burris	John B. Nicks
Patrick Carlson	Douglas Parr
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Doug Inhofe	Donald Kent Switzer
Jack Ivester	Rod Uphoff
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Kathryn LaFortune, Ph.D.	Randy Meachum
Marvin Martens	

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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 most 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 consists of 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 in criminal cases in 75 of Oklahoma's 77 counties, and in all 77 counties at the appellate level. During Fiscal Year 2022, OIDS contracted with private Oklahoma-licensed attorneys to handle 100% of the indigent non-capital trial caseload in 48 counties. In 27 counties, staff attorneys handled most of the indigent caseload. Private attorneys handle most 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 51,872 court appointments in Fiscal Year 2022. The numerical breakdown by division is as follows:

NON-CAPITAL TRIAL	
<i>Staff</i>	12,929
<i>County Contracts</i>	37,797
<i>Conflicts</i>	500
CAPITAL TRIAL – NORMAN	18
CAPITAL TRIAL – TULSA	9
GENERAL APPEALS	488
HOMICIDE DIRECT APPEALS	68
CAPITAL POST CONVICTION	62
EXECUTIVE DIVISION CONFLICTS	1
<i>TOTAL</i>	<u>51,872</u>

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.

### **Dedicated People Doing Outstanding Work: Snapshots of Success.**

In Fiscal Year 2022 the people who work for and contract with the Oklahoma Indigent Defense System applied their skills and dedication to accomplish outstanding results for our clients, the agency, and the criminal justice system. These accomplishments reflect the agency's core values which include thoughtful stewardship of agency resources, diligent representation of our clients, and an adherence to professionalism in the performance of our duties. The contributions of these outstanding individuals are too numerous to list; however, the following paragraphs offer examples of agency accomplishments that reflect our collective commitment to service and responsibility.

### **Capital Trial Accomplishments**

The Oklahoma Indigent Defense System has two capital trial divisions: Capital Trial Norman (CTN) and Capital Trial Tulsa (CTT). The capital trial divisions' primary responsibility is the defense of first-degree murder cases in which the State seeks the death penalty. When the divisions' workloads allow, they will take on the representation of clients in particularly complex non-death penalty first degree murder cases. Constitutional standards of effective representation require defense counsel, investigators, support staff, and contracted experts to dedicate careful attention to evidence of mental illness in capital cases. Usually, attorneys present evidence of mental illness as mitigating circumstances in plea negotiations and/or at sentencing. On rare occasions, evidence of the client's mental illness is so

profound that a verdict of not guilty by reason of mental illness provides a just resolution to the case.

During Fiscal Year 2022, the Capital Trial Norman Division achieved the rare result of a negotiated verdict of not guilty by reason of mental illness for a client who, without the extraordinary efforts of his trial team, would have faced a death sentence. The client was charged with two counts of first-degree murder and the State filed a bill of particulars alleging aggravating factors in support of death penalty sentencing.

Defense attorneys Mitchell Solomon, Shea Watts, Raven Sealy, and investigators, Dale Anderson, Jason Satwalekar, and Erin Moore, and Secretary Megan Moser, collected and reviewed thousands of pages of military documents and volumes of discovery in preparation for the client's defense. They also interviewed more than one hundred witnesses from around the United States. The defense team established that their client was a United States Army medic who, during his two of tours of duty in Afghanistan, experienced horrific battlefield events that left him with severe post-traumatic stress disorder (PTSD). With the help of outstanding contracted mental health and military service experts, the team established a nexus between the client's PTSD and his dissociative state of mind at the time of the homicides. The evidence of the client's inability to understand the nature and consequences of his actions or their wrongfulness at the time of the events was so profound the State's own expert agreed with these findings. As a result, the State and the client agreed to a verdict of non-guilty by reason of mental illness. The defense team's efforts served the interests of justice and brought finality to a tragic set of circumstances.

In FY-2022, the Capital Trial Tulsa Division's (CTT) exceptional efforts resulted in a fair and equitable resolution of a first-degree murder case in which the State sought the death penalty.



The State alleged their client acted in concert with two individuals to cause the death of a man with whom they had a conflict. Defense counsel Gregg Graves and Peter Astor worked with their investigators to establish all the facts of the case and develop a mitigation strategy in the event they would need it at trial. Their efforts produced valuable insights into the nature of the case.

Through earnest negotiations and shared discovery, the State and the defense negotiated a fair resolution to a difficult case. The state agreed to amend the first-degree murder charge and forego seeking the death penalty in exchange for the client's guilty pleas to a less serious homicide charge and a related charge. Per agreement with the State, the court sentenced the client to twenty-two years in the Department of Correction with the client serving the final ten years of the sentence on probation contingent upon his good behavior. The client received a seven-year concurrent sentence on the related charge.

### **Non-Capital Trial Accomplishments**

The Non-Capital Trial Division (NCTD) provides judicially determined indigent people trial-level representation in District Court felony, misdemeanor, traffic, wildlife, and juvenile delinquency cases. Although NCTD has several means of serving their clients, the accomplishments of the division's regional satellite offices are particularly representative of the agency's values. The attorneys, investigators, and support staff assigned to these offices are dedicated to defending and preserving their clients' constitutional rights through skilled and zealous advocacy. Despite the challenging nature of their primary tasks, these professionals consistently demonstrate their willingness to lead other criminal justice stakeholders in efforts to improve systemic challenges to the criminal justice system.

In Fiscal Year 2022, the Non-Capital Trial Division's Sapulpa Satellite office found

pragmatic ways to manage a systemic problem that frustrated judges, prosecutors, and agency clients. Deputy Division Chief James Dennis reported an increase in the already sizable number of mentally ill Creek County clients. Mr. Dennis and the attorneys assigned to the Sapulpa NCT office filed competency motions on behalf of clients whose mental illnesses raised doubts as to their ability to understand their rights, the process, and meaningfully participate with their attorneys in their defenses. Clients often faced months-long waiting periods before they were transported to the Oklahoma Forensic Center for competency evaluations. Many of these clients were charged with misdemeanors such as trespassing. In cases involving less serious offenses, Mr. Dennis and his team persuaded the prosecuting attorneys and judges to agree to personal recognizance bonds and eventual charge dismissals. This course of action allowed the clients to receive out-of-custody mental health care rather than remaining untreated in the county jail for months awaiting competency evaluations.

Based upon local needs and the success of long-established offices like the one in Sapulpa, the Oklahoma Indigent Defense System established two new non-capital trial offices that began service on the first day of FY-2022. The agency established an office in Enid to serve Alfalfa, Blaine, Grant, Garfield, and Kingfisher Counties. Another office was established in Lawton to serve Comanche and Stephens Counties. Collectively, the attorneys and support staff assigned to these offices have contributed to significant improvements in the administration of justice in the counties they serve.

Upon opening the Enid office, Deputy Division Chief Silas Lyman identified the office's priorities and immediately began working with the offices attorneys and staff to improve the quality of defense services. Mr. Lyman reports that in FY-2022 the Enid office established a stable and positive presence within the judicial community. The Enid office attorneys placed a

premium on diligently communicating with their assigned clients-especially those who remained in custody pending dispositions of their cases. Adult and juvenile detention center personnel communicated their appreciation for the office's dedication to reliable and consistent client visitation. Jail administrators noted that our clients and their facilities benefited from managing a better-counseled population.

The Enid office's attorneys and staff prioritized being responsive to the courts. The team members were prepared with their cases and were ready to proceed on docketed court actions. Cases were resolved more expeditiously than in years past to the benefit of the office's clients and in contribution to the efficient management of court dockets. Judges in the counties served by the Enid office noted the improved responsiveness of the Enid office's attorneys.

The Enid office attorneys continue to defend their client's rights and represent their client interests with zeal and dedicated preparation. This in turn encourages their prosecution counterparts to dedicate thoughtful consideration to their roles in the process. Mr. Lyman reports that the members of the Enid office continue to be genuinely excited about their contributions to the office's mission. Mr. Lyman, who has practiced law for decades as an indigent defender, prosecutor, and private practitioner reports that his inaugural year of managing the Enid office "Has been the best year of my professional career, hands down."

Deputy Division Chief, Debbie Maddox, manages the Lawton office. Like the Enid office, the new Lawton office's service began on the first day of FY-2022. Ms. Maddox's reports of the Lawton office's successes are remarkably consistent with reports of the Enid office's success. The Lawton attorneys dramatically improved client counseling through more frequent and meaningful meetings with in-custody clients. Lawton office attorneys continue to be well-prepared for docketed court

actions. They continue to represent their clients with zeal and dedicated preparation as well. Ms. Maddox reports that, "The District Judges in both counties (Comanche and Stephens) have stopped me to say thank you for Lawton NCT being so responsive and hard-working." The judges also expressed appreciation for the Lawton office's efforts to divert clients into substance abuse treatment programs. Over the course of FY-2022 the Lawton office attorneys have become valued members of the local legal community.

The Lawton office attorneys dedicated a good part of their inaugural year to collaborating with prosecutors, jail administrators, County Commissioners, the Comanche County Court Clerk's office, judges, and other stakeholders to develop Comanche Counties first pre-trial release program. Under this program pretrial detainees will be carefully screened for pretrial release under specific conditions and ongoing supervision. This program will allow many low-risk detainees to return to work, attend counseling and treatment programs, and work toward rehabilitative goals. This is an ongoing and collaborative effort that will significantly benefit agency clients, Comanche County, and the administration of justice.

### **Appellate Divisions Accomplishments**

The Oklahoma Indigent Defense System's appellate divisions evaluate criminal trials and dispositive hearings for errors and present propositions of error for the Oklahoma Court of Criminal Appeals' consideration in direct appeals and capital post-conviction applications. The valuable contributions of the attorneys, investigators, and support staff assigned to these divisions ensure that careful consideration is given to the preservation and protection of our statutory and constitutional rights. Each well-drafted brief and well-presented oral argument is a success in that the attorneys who present these pleadings and arguments confront the Court with colorable legal issues and give voice

to their client's right to meaningful review of their lower court proceedings.

The appellate divisions' serve a critical justice system function by ensuring the legitimacy of the trial process through appellate advocacy and review. In addition to the appellate divisions' systemic value, OIDS appellate attorneys and support staff achieved meaningful relief for many of their FY-2022 clients.

Cindy Danner, Chief of the General Appeals Division, reports that Deputy Chief Mark Hoover's appellate advocacy resulted in a published opinion in which the Court mandated relief for his client based upon the trial court's misapplication of the restitution statute thereby relieving the client of \$24,000 of court-related debt. Several other appeals resulted in mandates in which the Court of Criminal Appeals directed the lower courts to address appointment of counsel issues.

OIDS appellate attorneys also secured significant relief for their clients in cases involving substantial right and due process. For example, appellate counsel Ariel Parry persuaded the court that one of her client's was sentenced in violation of the prohibition against double punishment resulting in a dismissal of one of his charges and its 45-year sentence. In another case, appellate counsel Kim Heinze, persuaded the court to remand a matter for an evidentiary hearing to determine if the client was mentally ill and, thus, exempt from the imposition of hundreds of dollars in jail fees. Additional successes are represented by the achievements of defense counsel, Ricki Walterscheid, in cases in which the Court found the trial courts imposed a higher range of punishment than is currently permitted in revocation of suspended sentence cases.

During FY-2022 the Homicide Direct Appeals Division (HDAD) secured relief for many clients on jurisdictional grounds. The efforts of Division Chief, Jamie Pybas, and appellate

counsel, Michael Morehead, and Alex Richard, were particularly successful.

HDAD, Deputy Division Chief, James Lockard, zealously advocated for his client's interest in a FY-2022 case that starkly represents the importance of adherence to a fair and legitimate trial process. This case involved clear and indisputable evidence of judicial impropriety. Mr. Lockard's thorough and courageous advocacy resulted in an evidentiary hearing before an impartial judge who recommended Mr. Lockard's client receive a new trial free from the impropriety that denied his previous trial legitimacy.

### **General Operations Accomplishments**

The successes of the trial and appellate divisions would not be possible without the outstanding service of the agency's General Operations Program which includes the Executive and Finance Divisions. In addition to performing vital administrative functions, these dedicated professionals are instrumental in the agency's responsible stewardship of agency funds.

These efforts were reflected in the findings of the State Auditor and Inspector's operational review of the agency. Although the audit period covered Fiscal Year 2021, the audit was conducted and published in Fiscal Year 2022. Executive and Finance Divisions personnel prioritized expedient production of requested documents and thorough responses to inquiries. The audit report may be found at [https://www.sai.ok.gov/Search%20Reports/database/Indigent Defense Report Web Final.pdf](https://www.sai.ok.gov/Search%20Reports/database/Indigent%20Defense%20Report%20Web%20Final.pdf)

Finance and Executive Division personnel found ways to improve agency services and save the agency money throughout Fiscal Year 2022. Through their efforts the agency was able to establish three new satellite offices and relocate an existing office. The agency utilized surplus materials and equipment to supply these offices saving the agency thousands of dollars in the

process. The finance and executive divisions also secured improved and less expensive internet service for many of our attorneys and support staff. These divisions also expanded the use of technology such as Wi-Fi hotspots, mobile electronic devices, virtual faxes. The efforts of the individuals in these divisions significantly contributed to the agency's goals of improved efficiency and fiscal responsibility.

### ***MANY CHANGES AND NEW OPPORTUNITIES***

The agency's FY-2021 and FY-2022 caseloads departed from the typical trend of general, and often substantial, increases over the preceding 18 years. While the total agency caseload number of 51,872 for Fiscal Year 2022 represents a decrease of 8.3% over that of the previous fiscal year, it still represented a 4.32% increase since FY-2015, and an 18.21% increase since Fiscal Year 2010.

The recent trend in lower overall fiscal year caseloads in no way results in a windfall for an agency which has struggled to meet its mandate with historical funding levels. However, the caseload reduction and recent increases in agency funding have enabled the agency to improve the quality of services we provide our clients and enabled the agency to contribute to the improvement of the criminal justice system more meaningfully.

The decrease in overall caseload is primarily attributable to fewer agency appointments in non-capital trial felony cases. In FY-2020 the agency was appointed to 20,369 non-capital trial felony cases. In FY-2022, the agency was appointed to 17,933 non-capital trial felony cases.

Three primary factors contributed to the recent reductions in appointments: (1) The COVID19 pandemic's impact on rural county prosecutions and docket management, (2) The passage and gradual application of State Question 780 in rural counties, and (3) The application of the

United States Supreme Court decision in *McGirt v. Oklahoma*, 140 S.Ct. 1102 (2020) and *McGirt's* state court progeny. The confluence of these three events has led to an overall decrease in state district court felony filings. The impact of these factors appears most significant in rural counties in eastern Oklahoma.

Many court appointments and proceedings were delayed during the initial stages of the pandemic. These slowdowns coincided with the beginning of Fiscal Year 2021 (July 1, 2020). Agency staff and contract attorneys worked diligently with prosecutors over the next year of the pandemic to reduce jail populations. Our attorneys expedited plea negotiations and advocated for lowered bail on behalf of clients to reduce jail populations, thereby mitigating the risk of virus exposure to jail personnel, clients, attorneys, and the public.

The effects of the pandemic on the criminal justice system and the agency have continued into FY-2022. Prosecutors, judges, and indigent defenders continue to work together to mitigate the risks associated with COVID19 transmission in courtrooms and jails. It is likely that charging decisions enabled by State Question 780 served as a mechanism for managing dockets and jail populations during the more challenging days of the pandemic. It is also likely that these mechanisms continue to be utilized as COVID19 lingers as a public health concern.

State Question 780 became effective on July 1, 2016 (the first day of FY-2017). This measure changed simple drug possession and low-level property crimes from felonies to misdemeanors. During the ten years preceding the enactment of State Question 780, state-wide felony filings increased dramatically from just under 35,000 in 2008 to almost 50,000 in 2016. Statewide felony filings decreased considerably following the enactment of State Question 780. OIDS appointments to felony cases in rural counties decreased from 27,224 in FY-2017 to 20,369 in FY-2020. The number of misdemeanor

appointments rose during this time from 9,677 in FY-2017 to 12,941 in FY-2020.

The pandemic became more of a challenge as Fiscal Year 2021 began on July 1, 2020. During FY-2021 the agency was appointed to 18,940 non-capital felony cases. The pressures of the pandemic and the opportunity to resolve a good number of cases through misdemeanor proceedings, rather than longer and more complicated felony proceedings, appears to have contributed to the decline in felony OIDS appointments.

Coinciding with what appears to be an increased utilization of misdemeanor filings in leu of felony filings under State Question 780 and the challenges of managing dockets and jail populations during the height of the pandemic, the United States Supreme Court issued its opinion in *McGirt v. Oklahoma*, 140 S.Ct. 1102 (Decided July 9, 2020). In *McGirt*, the Court held that the State of Oklahoma lacked jurisdiction to prosecute certain crimes (crimes defined by the Major Crimes Act, 18 U.S.C. §1153(a)) committed within the boundaries of the Muskogee/Creek reservation. The holding hinged on the Court's finding that the Muskogee/Creek reservation was not disestablished. Following the reasoning set forth by the United States Supreme Court in *McGirt*, the Oklahoma Court of Criminal Appeals subsequently found additional tribes to have similarly intact reservations. As a result, many felony cases that would have been filed in state district court were filed in Federal District Court.

Although the *McGirt* opinion and its progeny contributed to the decline in OIDS felony appointments in eastern Oklahoma counties, the enduring impact of the *McGirt* opinion will be mitigated by the United States Supreme Court's recent decision in *Oklahoma v. Castro-Huerta*, 597 U.S. (Decided June 29, 2022.) Following the *McGirt* decision, many prosecutors were uncertain as to whether the federal government

had exclusive jurisdiction to prosecute major crimes committed by non-Native Americans against Native Americans on tribal reservations. In *Castro-Huerta*, the Court held that the federal and state prosecutors have the authority to prosecute non-Native Americans under these circumstances. Although the *McGirt* opinion certainly contributed to the recent decline in OIDS' non-capital felony appointments, OIDS is certain to see more felony appointments following the Court's decision in *Oklahoma v. Castro Huerta*.

### ***OPPORTUNITIES TO IMPROVE AND CONTRIBUTE***

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 began Fiscal Year 2022 with an appropriation increase of 17.3%. The appropriation increase enabled the agency to increase staff attorney salaries to come closer to their prosecutor counterparts, thereby reducing the costs associated with turnover and ensuring compliance with national legal standards and caselaw. The agency was also able to establish two additional non-capital trial offices and provide vastly improved services in 9 counties. The additional funding also enabled the agency to make needed technological improvements that will significantly contribute to the agency's efficiency. The agency was also able to invest in our lawyers and support staff through substantial improvements in training.

With improved funding and more manageable caseloads the Oklahoma Indigent Defense System is positioned to no longer struggle to meet its minimal statutory and constitutional mandates. With more manageable caseloads our attorneys and investigators are better able

to bring valuable information to plea negotiations and more effectively advocate for our clients at the trial and appellate levels. Reported OIDS appointments in misdemeanor and juvenile cases suggests the agency is being under appointed in many counties. The Oklahoma Indigent Defense System hopes courts will increasingly recognize the value dedicated attorneys and support staff bring to all indigents in criminal matters and provide our agency with the opportunity to improve the quality of the criminal justice system.

# 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 139 full-time equivalent staff members at its main offices in Norman and its satellite offices in Altus, Clinton, Enid, Guymon, Lawton, Okmulgee, Sapulpa, and Woodward. (The Woodward satellite office was opened in the fourth quarter of the fiscal year.)

In Fiscal Year 2022, the agency entered 123 new professional services contracts with private attorneys and expert service providers to furnish defense services in court-appointed cases, in addition to administering 88 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.

The Executive Division also administers professional training opportunities for our attorneys and support staff. FY-2022 was the beginning of significant increases in attorney and support staff training opportunities. The Executive Division dedicates a great deal of effort to facilitating agency employees' participation in valuable training programs resulting in a more competent and confident agency work force.

### *SUMMARY OF EXECUTIVE DIRECTOR DUTIES*

#### **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
- ◆ 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](http://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.

## ***EXECUTIVE CONFLICT CASELOAD***

During Fiscal Year 2022, the Executive Division maintained one pending capital conflict case carried over from the previous fiscal year.



# 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 2022, NCTD received 32,035 new appointments. NCTD's total FY-2022 caseload, which includes cases carried forward from previous fiscal years, equaled 51,226 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 2022, the Division's caseload was handled as follows:

- 1) Flat-rate Fiscal Year Contracts: In 48 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 eight satellite offices: Clinton, Enid, Guymon, Lawton, Mangum (now Altus), Norman (Cleveland County), Okmulgee and Sapulpa. These offices handled the entire caseload in 27 counties.

The Non-Capital Trial Division ended Fiscal Year 2022 (July 1, 2021 – June 30, 2022) with 40 attorneys. During Fiscal Year 2022, a satellite office staff attorney handled an average of 183 felony and youthful offender cases, 23 juvenile cases, and 116 misdemeanor, traffic and wildlife cases, or an average of 322 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 2022, each NCTD satellite office staff attorney did the work of two attorneys. Moreover, most attorneys worked in several district courts in multiple counties. In fact, the largest satellite office region in FY 2022 covered seven courthouses and 7,544 square miles.

Currently, three (3) satellite offices cover five counties each (Enid, Clinton, and Altus), one (1) office covers a four-county area (Guymon), two (2) offices cover two counties each, and two (2) offices cover a single county (Norman and Sapulpa);

however, the Sapulpa office covers two (2) separate courthouses within Creek County. Prior to the establishment of the Woodward satellite office in late FY 2022, the Clinton office covered 7 counties.

- 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 2022, NCTD assigned 294 conflict cases to contracted conflict counsel. Conflicts arising out of county contracts account for 132 of those cases. Conflicts arising out of satellite offices account for 162 of those cases.
- 4) In FY-2010, NCTD received 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, the agency has maintained this position. The roving attorney is assigned complicated cases. This attorney participates with assigned counsel in trial strategy formulation, pre-trial litigation, and trial advocacy. The roving attorney was assigned 25 new cases during FY-2022, most of which were serious and complicated felony cases. As FY-2022 ended, the roving attorneys carried 6 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 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.

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 staff 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 (\$80/hour for in-court legal services; \$60/hour for out-of-court legal services) under Section 1355.8(D)(6) of the Indigent Defense Act.

In Fiscal Year 2022, the Non-Capital Trial Division's satellite offices served the following counties:

**NORMAN OFFICE**

Cleveland

**ALTUS OFFICE (FORMERLY MANGUM)**

Greer  
Harmon  
Kiowa  
Jackson  
Tillman

**CLINTON OFFICE**

Beckham  
Custer  
Dewey  
Ellis  
Roger Mills  
Washita  
Woodward

**ENID OFFICE**

Alfalfa  
Blaine  
Garfield  
Grant  
Kingfisher

**GUYMON OFFICE**

Beaver  
Cimarron  
Texas  
Harper

**LAWTON OFFICE**

Comanche  
Stephens

**OKMULGEE OFFICE**

Okfuskee  
Okmulgee

**SAPULPA OFFICE**

Creek (2 courthouses)

**WOODWARD OFFICE**

(A WOODWARD OFFICE WAS ESTABLISHED IN THE FOURTH QUARTER OF FY-2022.)

***OVERALL CASELOAD***

In Fiscal Year 2022, the Non-Capital Trial Division received a total of 21,574 new county contract cases. County contractors discovered conflicts of interests in 143 of these cases. As a result, 132 of the conflict cases were assigned to contracted conflict counsel. Eleven 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's cases were subtracted from all newly assigned cases, the county contractors retained a total of 21,431 new cases in Fiscal Year 2022. The county contractors carried another 16,366 cases into FY-2022 from previous fiscal years.

Ultimately, the total FY-2022 county contract workload equaled 37,797 cases.

The Non-Capital Trial Division satellite offices reported a total of 176 conflict of interest cases. 162 of these cases were assigned to contracted conflict counsel. Fourteen cases were assigned to the roving attorney. With conflict and roving attorney cases subtracted from all newly assigned cases, the satellite offices handled 10,285 new cases in Fiscal Year 2022. The satellite offices carried another 2,605 cases into FY-2022 from previous fiscal years. Ultimately, the total FY-2022 satellite office workload totaled 12,890 cases.

The number of new NCTD cases, whether assigned to county contractors, satellite attorneys, conflict counsel or the roving attorneys, totaled 32,035.

The 51,226 cases handled by the Non-Capital Trial Division during Fiscal Year 2022 represent a caseload decrease of 8% compared to the number of cases handled in FY-2021. This decrease is a result of the continuing effects of COVID19 on court appointments, the statutory reclassification of some felonies as misdemeanors, and the results of the United States Supreme Court opinion in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020.).

The Fiscal Year 2022 NCTD caseload represents a 10.63% decrease since Fiscal Year 2016 (57,318 cases). However, the FY-2022 NCTD caseload also represents a 24.69% increase since FY-2011 in which the total NCTD caseloads was 41,083.

## **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: except

for 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.

## **CAPITAL TRIAL DIVISION – NORMAN OFFICE**

The Norman Capital Trial Division 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. In Fiscal Year 2022 the Norman Capital Trial Division carried over 11 cases from previous fiscal years; and opened an additional nine cases during Fiscal Year 2022, bringing the total number of cases represented to 20. Of those 20 cases, six were closed as follows:

### ***FISCAL YEAR 2022 RESULTS***

#### ***Jury and Non-Jury Trials***

- ◇ 1\* Jury trial resulting in Death Penalty  
\*Although the jury trial in this case occurred in Fiscal Year 2021, sentencing did not take place until a few days into Fiscal Year 2022. Thus, this case is recorded as closed in Fiscal Year 2022.

#### ***Guilty Pleas or Dismissals***

The Division represented 3 clients during Fiscal Year 2022 where cases were resolved by a plea. The results of those pleas are as follows:

- ◇ 1 Guilty Plea to Manslaughter and Sentenced to Ct. 1: 10 years to do and Ct. 2: 3 years to do, concurrent.
- ◇ 1 Guilty Plea to First Degree Murder and Sentenced to Life Without Parole.
- ◇ 1 Guilty Plea to First Degree Murder and Sentenced to Life (suspended, all but the first 45 years).

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 reflect the outstanding work by the Division’s attorneys, investigators, and support staff.

***Final Results of Cases Concluded***

Result	No. Of Cases
Death	1
Life Suspended except first 45 years	1
Life Without Parole	1
Pled to a lesser charge	1
Transferred to NCT (after agreement not to file the Bill, case was transferred to NCT)	1
Determined to be NGRMI	<u>1</u>
<b>Total</b>	<b>6</b>

**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 half 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 2022 began with a carryover of five pending cases from the previous fiscal year. The Division opened six new cases during the fiscal year, bringing the total caseload for the year to 11 cases. The Division concluded three cases, carrying over eight cases into Fiscal Year 2023.

***OVERVIEW***

The Tulsa Capital Trial Division continues to work diligently to provide excellent representation to indigent capital defendants in accordance with the ABA Guidelines for Effective Representation in Death Penalty Cases. Our mission is to pursue life-saving outcomes for our clients at every stage of the proceedings. We utilize expert services to explain human behavior in context and thoroughly investigate the life stories of our clients to present a comprehensive portrait of troubled people. Our efforts have largely proved successful, with no death sentences from our division in many years. Fiscal year 2022 was no exception. Our efforts save the State of Oklahoma the exorbitant cost of continued litigation in death penalty trials, appeals, and provides aggrieved families with the comfort of finality.

***RESULTS***

**Resolved Case 1** - This case was closed on 1-5-22 and transferred to Capital Trial Norman.

**Resolved Case 2** - Gretchen Mosley and Velia Lopez represented a client who was charged with **Count 1**: Murder in The First Degree -Malice Aforethought.

Client pled guilty to a reduced charge of Manslaughter in The First Degree and sentenced to 20 years in the Department of Corrections with \$100 fine; \$100 VCA; Court Costs; Credit for time served.

**Resolved Case 3** - Gregg Graves and Peter Astor represented a client, who was charged in Payne County with **Count 1:** Murder in the First Degree; **Count 2:** Desecration of Human Corpse.

Client pled guilty to an amended charge of **Count 1:** 2nd Degree (Felony Murder) and sentenced to 22 years in the custody of the Department of Corrections, 10 years to be suspended upon the defendant's good behavior. Client pled guilty to **Count 2:** Desecration of Human Corpse and sentenced to serve 7 years in the custody of the Department of Corrections. Both counts will run concurrently one with the other with credit for time served and client was ordered to pay court costs along with costs of incarceration, restitution, jointly with co-defendants. Defendant to be supervised by Department of Corrections, probation, and parole for 2 years upon release.

***Final Results of Cases Concluded***

Result	No. Of Cases
Jury Trial – Not guilty	0
Jury Trial Death Sentences	0
Jury Trial LWOP	0
Determined to be Incompetent	0
Life With Parole (Pled)	0
Pled as charged (Life w/out)	0
Pled to lesser charge	2
Conflict of Interest	0
Charges Dismissed	0
Hired Private Counsel	0
Transferred to Other Division(s)	1
Perpetually Inactive	0
<b>Total</b>	<b>3</b>

***FISCAL YEAR 2022 RESULTS***

***Jury and Bench Trials***

- ◇ 0 Result of cases tried in 2022:  
No Jury Trial in FY2022

***Guilty Pleas***

The Division represented two clients during Fiscal Year 2022 where cases were resolved by a plea. The results of those pleas are as follows:

- ◇ 2 Reduced to Lesser Pled

# 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. 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 (10<sup>th</sup> 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 FY-2022 with 238 open cases in various stages of appeal before the Court of Criminal Appeals and received appointments in 250 additional cases

during the fiscal year. The Division closed 244 cases, ending the fiscal year with 244 open cases to be carried into Fiscal Year 2023. During the fiscal year, the Division handled 488 cases, with attorneys and staff preparing or reviewing a total of 4,081 pleadings, notices, orders, and decisions filed by the parties or court in those cases.

Attorneys in the General Appeals Division filed Briefs-in-Chief on behalf of 153 clients during FY-2022 and requested Evidentiary Hearings in 11 of those cases. Supplemental Briefs following remanded proceedings were filed in four cases. In addition, Division attorneys appeared for five oral arguments before the Court of Criminal Appeals in juvenile fast-track cases, filed 16 reply briefs, and four petitions for rehearing.

Eighteen of the General Appeals cases that received relief from the Oklahoma Court of Criminal Appeals pursuant to the United States Supreme Court decision *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020), returned to the Division in FY-2022 when the State of Oklahoma sought certiorari review of these decisions at the United States Supreme Court. Division attorneys Chad Johnson and Nicolette Brandt worked with private attorneys from the Washington, D.C., law firm of Jenner and Block in communicating with clients regarding the firm's willingness to represent them in defending the *McGirt* decision as it applied in their cases and provided input regarding the Briefs in Opposition filed. Thirteen of the cases were denied certiorari review, two cases were remanded for further proceedings in state court by the Supreme Court, and three cases were still awaiting a decision on review by the end of FY-2022.

The Division closed 244 cases during the year, most due to the Court of Criminal Appeals reaching a final decision in the case. Most of the cases, 158, were closed because a final decision was reached by the Court of Criminal Appeals, with 135 of those decisions affirming

the trial court. Relief was granted to the client by the appellate court in 23 decisions. Nine cases were reversed and remanded with instructions to dismiss; five cases received mixed relief, and four were remanded for further proceedings, and two cases received modified judgment and/or sentences. Certiorari was granted in one case, and in two cases, relief granted to the defendant by the trial court was affirmed by the appellate court.

In addition to the 13 cases closed by the denial of certiorari by the United States Supreme Court, 22 cases were dismissed by the Court of Criminal Appeals for lack of jurisdiction because the cases were not timely initiated by trial counsel. Another 13 cases were dismissed by the Court at the client's request after consultation with counsel, and nine cases were dismissed as moot or because the client died. Six cases were rejected by the Division because the appointment was invalid, five cases closed because outside counsel was retained by the client, six appeals were closed by consolidation with other cases, and three were transferred to another agency division due to a conflict of interest with another division client. Eight cases were contracted to outside counsel due to conflict or overloaded dockets. Finally, one case was closed due to the client being granted permission to proceed pro se.

The 250 new cases were received from 55 of the State's 77 counties. The largest number of appeals received were lodged from Tulsa and Oklahoma counties.

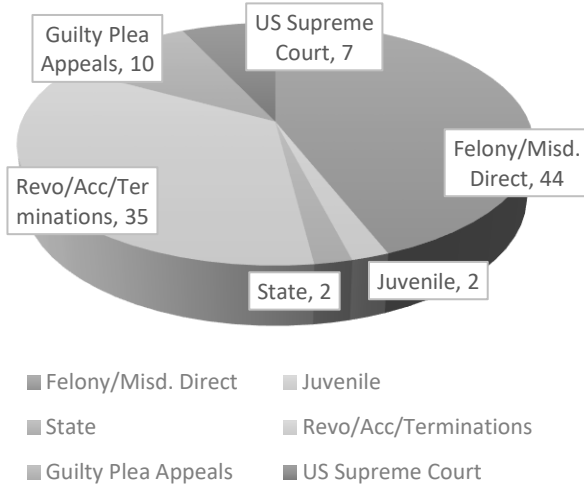


## *ANALYSIS OF CASES RECEIVED*

<i>Types of Appeals Lodged</i>	<i># of Cases %</i>	
Direct Appeals (Felony and Misdemeanors)	109	44
Revocation/Acceleration/Termination	89	35
Guilty Plea Appeals	24	10
US Supreme Court Responses	18	7
State Appeals	5	2
Juvenile (Adjudication, YO, Certifications)	<u>5</u>	<u>2</u>
<b>Total</b>	<b>250</b>	<b>100%</b>

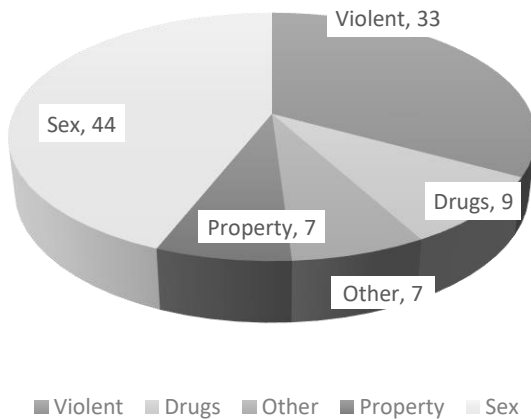
<i>Types of Direct Appeals</i>	<i># of Cases %</i>	
Violent Offenses	36	33
Sex Offenses	48	44
Drug Offenses	9	9
Property Crimes	8	7
Other (i.e., DUI, escape, SORA, FA, or unknown)	<u>8</u>	<u>7</u>
<b>Total</b>	<b>109</b>	<b>100%</b>

### Types of Appeals Received



This graph reflects the percentage of each type of appeal received by the General Appeals Division. Except for juvenile appeals (included in the “other” category), appeals of everything from burglary to first degree murder involve opening briefs of up to 50 pages in length. Other appeals involve juvenile appeals and responses to State appeals of adverse rulings.

### Direct Appeal Offenses



These percentages show that the majority of the convictions in the direct appeal cases received by the General Appeals Division are sexual offenses, while the second leading category involves other violent offenses such as murder and manslaughter, child abuse, assaults, robberies, kidnapping, and first-degree arson. Drug offenses now are the third leading category of offenses appealed

**Cases Received by County  
FY-2022**

Adair	1	Hughes	1	Okmulgee	4
Atoka	1	Jackson	11	Osage	1
Beckham	1	Jefferson	2	Ottawa	1
Blaine	2	Johnston	2	Pawnee	1
Caddo	2	Kay	11	Payne	10
Canadian	5	Kiowa	2	Pittsburg	2
Choctaw	2	Latimer	2	Pontotoc	3
Cimarron	1	LeFlore	4	Pottawatomie	1
Cleveland	12	Lincoln	14	Rogers	10
Comanche	5	Logan	2	Seminole	1
Cotton	1	Marshall	1	Sequoyah	1
Craig	1	Mayes	3	Stephens	9
Custer	10	McClain	4	Texas	1
Delaware	3	McCurtain	2	Tulsa	22
Dewey	1	McIntosh	8	Wagoner	1
Ellis	1	Muskogee	13	Washington	5
Garfield	11	Nowata	3	Washita	1
Garvin	4	Okfuskee	2	Woodward	5
Grady	4	Oklahoma	16		
				<b>TOTAL</b>	<b>250</b>

# CAPITAL (DEATH PENALTY) APPEALS

was decided by the Oklahoma Criminal Court of 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 (CPCD) is assigned to represent all death-sentenced defendants in post-conviction proceedings. By statute, the Oklahoma Indigent Defense System 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 assigned to CPCD.

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

# HOMICIDE DIRECT APPEALS DIVISION

## *CASELOAD*

The Homicide Direct Appeals Division began Fiscal Year 2022 with three pending capital cases, 35 cases in which the client was convicted of some form of homicide, and one non-capital felony case. During the fiscal year, four capital cases, 54 non-capital homicide cases, and one non-capital felony case were opened. By the end of the year, one capital case, 44 non-capital homicide cases, and one non-capital felony case were closed, leaving the Division with 52 active cases, consisting of six capital cases, 45 non-capital homicide cases, and one non-capital felony case.

## *STATEWIDE DISTRIBUTION*

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

<i>County</i>	
Canadian	1
Cleveland	2
McClain	1
Oklahoma	1
Pottawatomie	1
Tulsa	1

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

### *County*

Atoka	1	Okfuskee	1
Bryan	2	Oklahoma	10
Carter	3	Okmulgee	3
Cleveland	7	Osage	1
Comanche	8	Payne	1
Creek	1	Pittsburg	2
Custer	3	Pontotoc	1
Delaware	3	Pottawatomie	3
Kay	1	Rogers	6
Kingfisher	1	Seminole	1
Lincoln	1	Stephens	2
Mayes	1	Tulsa	19
McIntosh	1	Wagoner	2
McCurtain	3	Washington	1
Muskogee	2		

## *DISPOSITION OF CASES*

During Fiscal Year 2022, one capital case was affirmed by the Oklahoma Court of Criminal Appeals and closed after the United States Supreme Court denied the petition for writ of certiorari. Thirteen non-capital homicide cases and one non-murder case were affirmed by the Oklahoma Court of Criminal Appeals and were subsequently closed. Two Juvenile life without parole cases were closed, and one State's appeal was closed after it was remanded to the district court for further proceedings. Nineteen non-capital murder cases were ultimately reversed and remanded with instructions to dismiss based on the Supreme Court's decision in *McGirt v. Oklahoma*. Two appeals were dismissed by the Court for lack of jurisdiction based on failure of trial counsel to properly perfect the appeal. Three cases were closed after the clients elected to dismiss their appeals. Two non-capital homicide cases were transferred to the Capital Post-Conviction Division. Three non-capital homicide cases were contracted to private overload counsel.

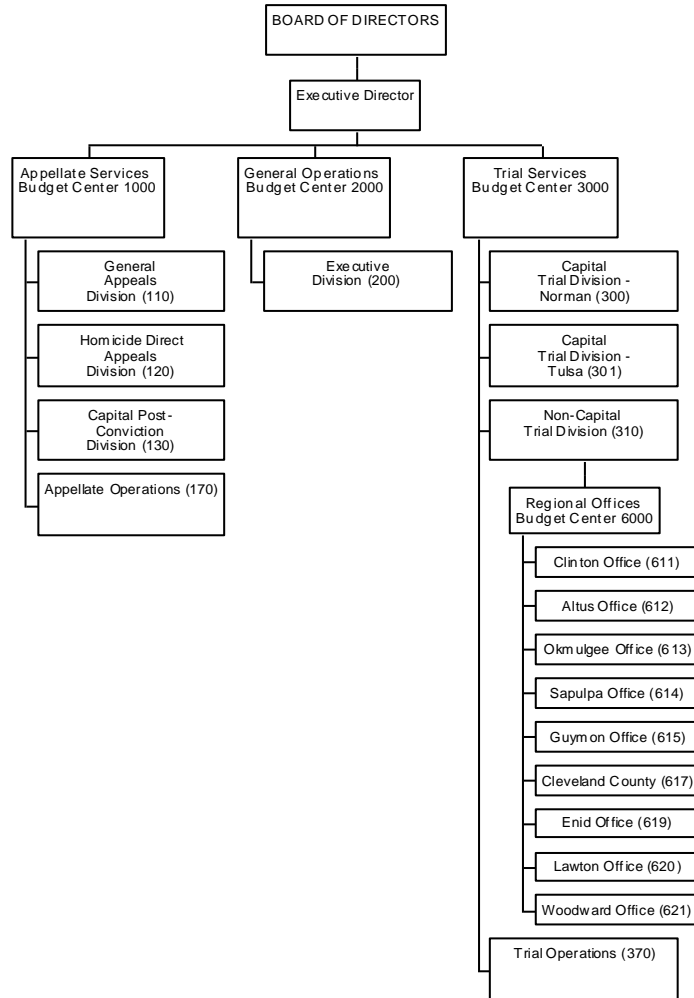
## CAPITAL POST-CONVICTION DIVISION

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 2022 with 36 active cases, including five capital post-conviction cases and 31 non-capital direct appeal cases. During Fiscal Year 2022, the Division accepted five capital post-conviction cases and 21 non-capital direct appeal cases. The Division closed three capital post-conviction cases. Two of these cases were transferred to the Capital Habeas Unit of the Federal Public Defender for the Western District of Oklahoma, and the third case was transferred to a Federal Public Defender CJA panel attorney. The Division also closed 25 non-capital direct appeal cases after decisions from the Oklahoma Court of Criminal Appeals, including 4 cases which were dismissed and re-filed in federal or tribal court pursuant to *McGirt v. Oklahoma* and later upheld by the United States Supreme Court. Additionally, one case was closed after it was transferred to private overload counsel. As a result, the Division ended Fiscal Year 2022 with a total of 34 cases, including seven capital post-conviction cases and 27 non-capital direct appeal cases.

# Oklahoma Indigent Defense System ORGANIZATIONAL CHART

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**OKLAHOMA INDIGENT DEFENSE SYSTEM**  
**Non-Capital Trial Division**  
**Actual FY-2022 Workload**  
**July 1, 2021 through June 30, 2022**

**SUMMARY OF ALL CATEGORIES OF APPOINTMENTS**

TYPE OF APPOINTMENT		FEL	JUV	MISD	TRAF	WL	YO	ALL
FY-2022 Contract <i>LESS</i> Conflicts and Rover Cases		11,885	953	8,154	408	8	23	21,431
Plus Contract Carry-Over from Prior Fiscal Years		10,395	718	4,881	324	20	28	16,366
<b>Total Contract Workload</b>		<b>22,280</b>	<b>1,671</b>	<b>13,035</b>	<b>732</b>	<b>28</b>	<b>51</b>	<b>37,797</b>
2022 Satellite Office <i>LESS</i> Conflicts and Rover Cases		5,816	618	3,620	215	0	16	10,285
Plus Satellite Office Carry-Over from Prior Fiscal Years		1,482	307	783	11	0	22	2,605
<b>Total Satellite Office Workload</b>		<b>7,298</b>	<b>925</b>	<b>4,403</b>	<b>226</b>	<b>0</b>	<b>38</b>	<b>12,890</b>
FY-2022 Conflicts	Contracts	100	0	31	0	0	1	132
	Satellite Offices	115	15	30	0	0	2	162
Conflicts Carryover from Prior Fiscal Years	Contract Counties	41	2	11	0	0	1	55
	Satellite Office Counties	112	5	31	0	0	3	151
FY-2022 Rover Cases	Contract Counties	8	0	3	0	0	0	11
	Satellite Office Counties	9	0	5	0	0	0	14
Rover Cases Carryover from Prior Fiscal Years		8	0	6	0	0	0	14
<b>Total Conflicts and Rover Cases Workload</b>		<b>393</b>	<b>22</b>	<b>117</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>539</b>
<b>TOTAL FY-2022 NCT Workload</b>		<b>29,971</b>	<b>2,618</b>	<b>17,555</b>	<b>958</b>	<b>28</b>	<b>96</b>	<b>51,226</b>