

OKLAHOMA

INDIGENT DEFENSE SYSTEM



2024 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



J. KEVIN STITT
GOVERNOR

TRICIA EVEREST
SECRETARY OF PUBLIC SAFETY

CHARLES TIM LAUGHLIN
Executive Director

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CHARLES TIMOTHY LAUGHLIN
EXECUTIVE DIRECTOR



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September 20, 2024

TO THE HONORABLE J. KEVIN STITT
HONORABLE GREG TREAT
HONORABLE CHARLES MCCALL
HONORABLE M. JOHN KANE, IV
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, 2024, 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 2024 from the Governor and his staff, from the Legislature, and from the Judiciary.

The Oklahoma Indigent Defense System thanks the agency's staff and contract attorneys, investigators, administrators, support staff, and expert service providers for their profound and unwavering service to our clients. Their efforts enable the Oklahoma Indigent Defense System to serve the interests of justice through our skilled client advocacy and our vigorous defense of our shared constitutional rights.

Sincerely,

A handwritten signature in black ink that reads "Charles T. Laughlin".

Charles "Tim" Laughlin
Executive Director

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◆ Contents

◆ Introduction	1
◆ General Operations Program	3
Executive Division	3
Summary of Executive Director Duties	4
Website	5
◆ Trial Program	5
Non-Capital Trial Division	6
Altus Office	7
Clinton Office	7
El Reno Office	7
Enid Office	7
Guymon Office	7
Lawton Office	8
Okmulgee Office	8
Sapulpa Office	8
Woodward Office	8
Overall Caseload	8
Capital (Death Penalty) Trial Representation	9
Capital Trial Norman Division	9
Fiscal Year 2024 Results	9
Capital Trial Tulsa Division	10
Fiscal Year 2024 Results	10
Appellate Program	12
Appellate Program Workload	13
Appellate Program Cases by County	16
Organizational Chart	18
Non-Capital Trial Division FY-2024 Workload	19

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 Appellate East and Appellate West Divisions. In years past and for the first four months of Fiscal Year 2024, the Appellate Program consisted of the General Appeals Division, the Homicide Direct Appeals Division, and the Capital Post-Conviction

Division. These divisions have been reorganized into the Appellate East and West Divisions.

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 2024, OIDS contracted with private Oklahoma-licensed attorneys to handle 100% of the indigent non-capital trial caseload in 41 counties. In 34 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 cases after OIDS has been appointed by district courts or the Oklahoma Court of Criminal Appeals.

OIDS represented a total of 48,215 court appointments in Fiscal Year 2024. The numerical breakdown by division is as follows:

NON-CAPITAL TRIAL	
<i>Staff</i>	18,139
<i>County Contracts</i>	29,075
<i>Conflicts</i>	426
CAPITAL TRIAL – NORMAN	20
CAPITAL TRIAL – TULSA	18
APPELLATE PROGRAM	533
HOMICIDE DIRECT APPEALS	91
EXECUTIVE DIVISION CONFLICTS	4
<i>TOTAL</i>	<hr/> 48,215

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 prior fiscal years in addition to the current year's court appointments.

The Oklahoma Indigent Defense System Continues to Keep Gideon's Promise.

The United States Supreme Court's decision in *Gideon v. Wainwright*, 372 U.S. 355 (1963), turned 61 years old in fiscal year 2024. In this case, a unanimous court held that states are required to provide legal counsel to indigent defendants charged with felonies. In 1967, the Supreme Court held that states had an obligation to provide counsel to indigent juvenile defendants. Finally, in 1972, in *Argersinger v. Hamlin*, 407 U.S. 25 (1972), the Supreme Court held that states are obliged to provide counsel to indigents charged with misdemeanors.

The legacy of the Gideon decision and its progeny is a promise from our nation and our states individually and collectively to each person in this country. These cases articulate our nation's and our state's promise that no person's freedom should be placed in jeopardy of criminal prosecution without the necessary benefit of a lawyer committed to that person's legal defense and advocacy.

United States Supreme Court Justice Hugo Black put it this way, "[L]awyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trial before impartial tribunals in which every defendant stands equal

before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accuser without a lawyer to assist him."

In the greater part of Oklahoma, the Oklahoma Indigent Defense System is charged with keeping Gideon's promise. (We share this honor with the Oklahoma and Tulsa County Public Defenders.) Every employee of the Oklahoma Indigent Defense System plays a vital role in enabling the agency to serve our clients.

In Fiscal Year 2024, the people who worked for and contracted with the Oklahoma Indigent Defense System defended the constitutional rights of indigent Oklahomans with skill, dedication, and honor. In doing so, they defended everyone's constitutional rights and kept Gideon's promise. The Oklahoma Indigent Defense System will continue to keep Gideon's promise as we work to safeguard our shared constitutional values.

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 166 full-time equivalent staff members at its main offices in Norman and its satellite offices in Altus, Clinton, El Reno, Enid, Guymon, Lawton, Norman, Okmulgee, Sapulpa, and Woodward. (In early FY-2025, the agency opened offices in Pryor to serve Mayes County and Poteau to serve LeFlore County.)

In Fiscal Year 2024, the agency entered 132 new professional services contracts with private attorneys and expert service providers to furnish defense services in court-appointed cases, in addition to administering 119 contracts carried over from the previous fiscal year. The Executive Division services these contracts in addition to

providing support services to the agency's attorneys and investigators.

The Executive Division also administers professional training opportunities for our attorneys and support staff. FY-2024 saw the continuation of significant increases in attorney and support staff training opportunities. Although the agency continued its commitment to providing our employees high quality state-wide and national training opportunities, the agency began to incorporate more local and in-house training opportunities. The incorporation of local and in-house training programs contributes to our staff's professional development in two ways. First, employees learn valuable skills from presenters who have personal experience with the employees' tasks and challenges. Secondly, more localized training experiences develop mentorships and collaborative relationships that employees rely upon long after the training sessions conclude.

With these training goals in mind, the agency reinstated the position of Training Coordinator in December of 2023. Katie Taber, who was serving the agency well in our Finance Division, agreed to take on the Training Coordinator responsibilities. Ms. Taber's efforts have enabled the agency to offer employees improved technical, policy, and professional training opportunities. While Ms. Taber has offered

logistical training support, employees like Travis Smith, Non-Capital Trial Deputy Division Chief, and Cindy Danner, Appellate Program Chief, offered substantive training programs throughout the year. The Executive Division is proud to facilitate 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

**General Operations Program
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.

The agency's Finance and Executive Divisions are masters of logistics and administration. As the legal landscape continues to evolve for our trial and appellate attorneys and support staff, our Finance and Executive Divisions ensure agency

staff have the necessary tools to provide excellent service.

Deputy Executive Director, Angela Cole-Cockings, expertly marshals the agency's administrative staff. In FY-2024, the agency continued to make significant improvements in our finance, procurement, and technological functions. Ms. Cole-Cockings worked closely with our Chief Finance Officer, Brandy Bahm, to improve the agency's solid fiscal management.

Purchasing Officer, Christa Szabo, continued to demonstrate exceptional tenacity and creativity throughout FY-2024. Ms. Szabo worked diligently to help the agency secure and maintain leases for new, relocated, and existing offices. Ms. Szabo also continued her mission to ensure fiscal responsibility by expertly utilizing surplus opportunities. Ms. Szabo continues to be a true problem solver.

Human Resources Manager, Whitney Fleming, and Human Resources Specialist, Jalaina Arvin, dedicated exemplary effort to the agency's personnel needs including recruiting, onboarding, benefits management, and the arrangement of continuing education opportunities. Ms. Fleming and Ms. Arvin demonstrated leadership and innovation as they recommended and implemented thoughtful procedural improvements while managing unprecedented workloads.

In FY-2024, Information Systems Network Manager, Felisa Billy, and Information Systems Application Manager, T.J. Peterson, continued to improve the work lives of the agency's attorneys, investigators, and support staff by implementing significant technological improvements.

The outstanding efforts of the entire General Operations Program, in conjunction with the efforts of the Non-Capital Trial Division, resulted in the July 1, 2024, establishment of two new trial offices which will serve Mayes and LeFlore Counties in FY-2025 and beyond.

In FY-2024, the Executive Division continued to develop the Executive Director's Internship Program. This program offered up to 18 law students the opportunity to work with skilled attorneys on trial and appellate cases. The internship program has developed into a valuable recruiting tool. Many interns have sought and continue to seek employment opportunities with the agency upon graduation. The efforts of the entire General Operations Program contributed to the continued success of this program in FY-2024.

The Executive Division continued the agency's client services program in FY-2024. Karen Walker-Dodge continues to organize and manage the program through which the agency improves the disposition of many of our clients' criminal cases by facilitating the provision of social services to meet our clients' needs. The program identifies clients whose case dispositions are most likely to be improved with the provision of services. The program evaluates the clients' needs including mental health/substance abuse treatment, housing, education, vocational assistance, child/adult care challenges, etc. Ms. Walker-Dodge built a sound framework for the program in the latter part of FY-2023. In early FY-2024, Ms. Walker-Dodge began supervision of the agency's first Resource Navigator, Kaleda Ruck, who served several counties out of the agency's El Reno office.

Later in FY-2024, the agency added three more Resource Navigators to serve multiple counties out of the agency's Norman, Okmulgee, and Lawton offices. In a relatively short period of time, Ms. Walker-Dodge and the four Resource Navigators assisted 495 agency clients in several counties.

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 <https://oklahoma.gov/oids.html>.

◆ 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).

Chapter 3

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 2024, NCTD received 31,222 new appointments. NCTD's total FY-2024 caseload, which includes cases carried forward from previous fiscal years, equaled 47,460 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 roving attorneys.

In Fiscal Year 2024, the Division's caseload was handled as follows:

- 1) Flat-rate Fiscal Year Contracts: In 41 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 ten satellite offices: Altus, Clinton, El Reno, Enid, Woodward, Guymon, Lawton, Norman, Okmulgee, and Sapulpa. These offices handled the entire caseload in 34 counties.

The Non-Capital Trial Division ended Fiscal Year 2024 (July 1, 2023 – June 30, 2024) with 60 attorneys (55 Satellite Office Attorneys, 3 Roving Attorneys, 1 Deputy Chief for NCTD, and 1 Chief.) During Fiscal Year 2024, a satellite office staff attorney handled an average of 176 felony and youthful offender cases, 24 juvenile cases, and 130 misdemeanor, traffic and wildlife cases, or an average of 330 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 2024, each NCTD satellite office staff attorney did the work of two attorneys. Moreover, most attorneys worked in several district courts in multiple counties.

Currently, three satellite offices cover five counties each (Altus, Clinton, and Enid), three offices cover four-county areas (Guymon, Lawton, and Woodward), one office covers three counties (Norman), one office covers two counties (Okmulgee), and two offices cover a single county (El Reno and Sapulpa). Although Sapulpa covers one county, the office covers two (2) separate courthouses within Creek County.

- 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 2024, NCTD assigned 228 conflict cases to contracted conflict counsel. Conflicts arising out of county contracts account for 36 of those cases. Conflicts arising out of satellite offices account for 192 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. In FY-2024, the agency added three additional roving attorneys. The roving attorneys are assigned complicated cases. These attorneys participate with assigned counsel in trial strategy formulation, pre-trial litigation, and trial advocacy. The roving attorneys were assigned 26 new cases during FY-2024, most of which were serious and complicated felony cases. As FY-2024 ended, the roving attorneys carried 52 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 (\$120/hour for in-court legal services; \$100/hour for out-of-court legal services) under Section 1355.8(D)(6) of the Indigent Defense Act.

In Fiscal Year 2024, the Non-Capital Trial Division's satellite offices served the following counties:

ALTUS OFFICE

Greer, Harmon, Kiowa, Jackson, & Tillman

CLINTON OFFICE

Beckham, Custer, Ellis, Roger Mills, & Washita

EL RENO OFFICE

Canadian

ENID OFFICE

Alfalfa, Blaine, Garfield, Grant, & Kingfisher

GUYMON OFFICE

Beaver, Cimarron, Harper, & Texas

LAWTON OFFICE

Comanche, Cotton, Jefferson, & Stephens

NORMAN OFFICE

Cleveland, Garvin, & McClain

OKMULGEE OFFICE

Okfuskee & Okmulgee

SAPULPA OFFICE

Creek (2 Courthouses)

WOODWARD OFFICE

Dewey, Major, Woods, & Woodward

OVERALL CASELOAD

In Fiscal Year 2024, the Non-Capital Trial Division received a total of 17,490 new county contract cases. County contractors discovered conflicts of interests in 54 of these cases. As a result, 36 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 attorneys. Once the conflict and roving attorney's cases were subtracted from all newly assigned cases, the county contractors retained a total of 17,452 new cases in Fiscal Year 2024. The county contractors carried another 11,623 cases into FY-2024 from previous fiscal years. Ultimately, the total FY-2024 county contract workload equaled 29,075 cases.

The Non-Capital Trial Division satellite offices reported a total of 200 conflict of interest cases. 192 of these cases were assigned to contracted conflict counsel. Eight cases were assigned to roving attorneys. With conflict and roving attorney cases subtracted from all newly assigned cases, the satellite offices handled 13,516 new cases in Fiscal Year 2024. The satellite offices carried another 4,623 cases into FY-2024 from previous fiscal years. Ultimately,

the total FY-2024 satellite office workload totaled 18,139 cases.

The number of new (FY-2024) NCTD cases, whether assigned to county contractors, satellite attorneys, conflict counsel or the roving attorneys, totaled 31,222.

The 47,640 cases handled by the Non-Capital Trial Division during Fiscal Year 2024 represent a caseload decrease of 8.8% compared to the number of cases handled in FY-2023.

The Fiscal Year 2024 NCTD caseload represents a 16% decrease since Fiscal Year 2016 (57,318 cases). However, the FY-2024 NCTD caseload also represents a 16% increase since FY-2011 in which the total NCTD caseloads was 41,083.

As is discussed in the following paragraph, the FY-2024 non-capital trial caseload reflects NCTD's improved efficiency in closing prior fiscal year cases. With fewer cases carried forward from previous fiscal years, NCTD has improved its capacity for managing current fiscal year cases.

The number of new Non-Capital Trial Division appointments is virtually unchanged from FY-2023 to FY-2024. The division was appointed to 31,222 new cases in FY-2024. In FY-2023 the division was appointed to 31,430 new cases. A difference of 208 cases.

Although the new case appointment rate remained steady in Fiscal Years 2023 and 2024, the Non-Capital Trial Division decreased the overall number of open cases through the more efficient and timely closing of prior fiscal year cases.

NCTD carried 4,188 fewer open cases into FY-2024 than the division carried into FY-2023. As a result of NCTD's efforts, the number of carryover cases declined 20% from FY-2023 to FY-2024. In FY-2023, NCTD carried 20,606 cases into the new fiscal year from prior fiscal

years. In FY-2024, NCTD carried 16,418 cases into the new fiscal year from prior fiscal years.

Non-Capital Trial Division 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. NCTD provides criminal defense representation through regional satellite offices, fiscal year county contracts, conflict contracts, and staff roving attorneys. Staff attorneys and contracted attorneys alike vigorously defended their clients' constitutional rights throughout FY-2024. NCTD's successes are too numerous to list; however, in FY-2024, all ten Satellite Offices tried cases to juries, most resulting in positive outcomes for our clients and many resulting in acquittals. The roving attorneys tried five cases to juries. These trials were factually and legally complicated cases involving homicide or other violent felony allegations. All five trials resulted in favorable results for the clients.

During the last few weeks of Fiscal Year 2024 the agency prepared to establish satellite offices in Pryor (Mayes County) and Poteau (LeFlore County) by July 1, 2024. The Pryor office, headed by Abi Pink, and the Poteau office, headed by Ryan Wyrick, have increased the number of satellite offices to twelve offices covering 36 counties.

CAPITAL (DEATH PENALTY) TRIAL REPRESENTATION

The OIDS Capital Trial Divisions are assigned the task of representing indigent defendants in cases in which the State seeks 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 Division. 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 NORMAN DIVISION

The Capital Trial Norman Division (CTND) represents defendants in capital cases and, at times, non-capital first degree murder cases throughout the state excluding those filed in Tulsa and Oklahoma Counties. CTND also represents co-defendants of clients represented by the Capital Trial Tulsa Division (CTTD).

In Fiscal Year 2024, the Capital Trial Norman Division carried over 11 cases from previous fiscal years. CTND opened an additional nine cases during Fiscal Year 2024, bringing the total number of cases represented to 20. (Of those 20 cases, one was a client's trailing felony case.)

FISCAL YEAR 2024 RESULTS

CTND did not have any jury trials in Fiscal Year 2024. Rather, CTND resolved three clients' cases through guilty pleas following months of intensive trial preparation and negotiation. CTND resolved another client's case through an acquittal based upon a verdict that the client was too mentally ill to understand the nature, consequences, or wrongfulness of his actions. CTND's outstanding attorneys, investigators, and support staff continue to provide outstanding advocacy.

Case Resolutions

The Capital Trial Norman Division represented three clients during Fiscal Year 2024 whose cases were resolved by guilty pleas. In each of these cases, the client entered guilty pleas to First Degree Murder and other charges and received maximum sentences of Life Without the Possibility of Parole.

The Capital Trial Norman Division represented one client during Fiscal Year 2024 whose case was resolved by acquittal on the grounds of mental illness which resulted in the client's commitment to the Oklahoma Forensic Center.

CTND secured the dismissal of the Bill of Particulars on behalf of another client who had been facing a potential death sentence. CTND was able to present first stage and mitigating evidence to the District Attorney's office which resulted in the Bill of Particulars being dropped. CTND was assigned to another client in a first-degree murder case in which the State chose not to seek the death penalty. These two cases were transferred to the Non-Capital Trial Division.

CTND maintains close contact with the Capital Trial Tulsa Division and the Non-Capital Trial Division to ensure agency clients charged with first degree murder receive responsive and conflict-free representation. The results set forth below reflect the outstanding work by the attorneys, investigators, and support staff.

The following is a summary of CTND's case results:

Result	No. Of Cases
Death	0
Life Without Parole (Following Plea)	3
Life Without Parole (Jury Trial)	0
Pled to a Lesser Charge	2
Determined to be NGRMI	1

CAPITAL TRIAL TULSA DIVISION

The Capital Trial Tulsa Division (CTTD) represents defendants in capital cases and, at times, non-capital first degree murder cases throughout the state excluding those filed in Tulsa and Oklahoma Counties. CTTD also represents co-defendants of clients represented by the Capital Trial Norman Division (CTND).

In Fiscal Year 2024 the Capital Trial Tulsa Division carried over eight first-degree murder cases and one non-murder case from previous fiscal years. CTTD opened six first-degree murder cases and three non-murder cases during Fiscal Year 2024, bringing the total number of cases represented to eighteen. CTTD resolved four murder cases and two non-murder cases in FY-2024.

The Capital Trial Tulsa Division (CTTD) 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. CTTD's mission is to pursue life-saving outcomes for their clients at every stage of the proceedings. CTTD utilizes expert services to explain human behavior in context and thoroughly investigate the life stories of their clients to present a comprehensive portrait of troubled people. CTTD's efforts have proved successful, with no death sentences from that division in many years.

Fiscal Year 2024 Results

Resolved Capital Case 1

CTTD resolved a first-degree murder case in which the State originally sought the death penalty. In spite of difficult facts, attorneys Velia Lopez and Gretchen Mosley persuaded the State of Oklahoma to dismiss the Bill of Particulars following expert litigation and negation. In exchange for the State not seeking

the death penalty, the client waived jury trial, entered a guilty plea, and was sentenced to life without the possibility of parole.

Resolved Capital Case 2

CTTD negotiated a sentence that avoided the death penalty for a client charged with two counts of first-degree murder, kidnapping, and two other felonies. The State was committed to seeking the death penalty at the outset in this case. The client's two co-defendants went to jury trial with one being sentenced to life without the possibility of parole and the other being sentenced to death.

Attorneys Gretchen Mosley, Velia Lopez, and Michon Hughes were fully prepared for trial, and litigated numerous issues that would have significantly impacted the trial. Shortly before trial, the State agreed to a negotiated plea and the client sentenced to life without parole on both murder counts and 20 years for kidnapping.

Resolved Murder Case 3

CTTD resolved a case in which the client was charged with child abuse by injury, first degree murder, and two other felonies. Attorneys Velia Lopez and Michon Hughes expertly litigated critical issues resulting in the dismissal of a non-murder charge. They presented the State with compelling mitigation evidence that paved the way for a negotiated guilty plea. The client pleaded guilty to first degree murder and several other felonies. Although the client received a maximum sentence of life without the possibility of parole, the client was not sentenced to death thanks to the excellent work of his trial team.

Resolved Capital Case 4

CTTD resolved a case in which the client was charged with first degree murder and possession of contraband by an inmate. The client was accused of killing a corrections officer while serving a life without parole sentence for a previous murder conviction. Attorneys Velia Lopez, Gretchen Mosley, and Keith Flinn, and

Mitigation Specialist, Melanie Collins, presented the State with compelling mitigation evidence. Based on these efforts, the state agreed to dismiss the Bill of Particulars in exchange for a sentence of life without parole plus 20 years for possession of contraband.

Resolved Case 5 & 6

These clients had additional separate non-capital charges that the state dismissed without prejudice.

The following is summary of CTTD's case results:

Result	No. Of Cases
Death	0
Life Without Parole (Following Plea)	4
Life Without Parole (Jury Trial)	0
Pled to a Lesser Charge	0
Determined to be NGRMI	0
Charge Dismissed (Non-Capital)	2

Capital Trial Divisions: Conclusion

The Oklahoma Indigent Defense System's two capital trial divisions embrace the Oklahoma Indigent Defense System's most challenging and consequential responsibilities. They defend and advocate for individuals charged with the most serious crimes and for whom the State seeks sentences of death.

Effective capital trial litigation requires the extraordinary efforts of skilled attorneys, investigators, and support staff. The trial team must prepare their cases on multiple tracks at once. They must prepare to defend against the charges. They must prepare to defend against the alleged death penalty aggravating factors. They must prepare to tell their client's story in the sentencing phase of trial through mitigation and expert witnesses. They must know how each preparation track works together in their client's defense. Throughout this complex process, capital defense counsel must also

persistently advocate for a negotiated resolution to the case.

The agency is grateful to the dedicated professionals in the Capital Trial Norman and

Capital Trial Tulsa divisions for embracing the challenges of death penalty litigation.

Chapter

4

◆ Appellate Program

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 713.13 of Title 21 and Section 1089 of Title 22 of the Oklahoma Statutes. The right to counsel at State expense on direct appeal was established under the Federal Constitution by the United States Supreme Court in *Douglas v. California*, 372 U.S. 353 (1963). The right to counsel at State expense in capital post-conviction proceedings is found in Section 1089 of Title 22.

The three legacy divisions operating as the General Appeals Division, the Homicide Direct Appeal Division, and the Capital Post-Conviction Division were consolidated into two new divisions, with attorneys from each moving into the new divisions to ensure levels of experience and expertise were assigned to each Division. Each Division was set up to have a Division Chief, Deputy Division Chief, and ten additional appellate attorneys, three investigators, and three full-time support personnel. A full-time office aide position was added to assist with courier and scanning duties for the program. An Appellate Program Chief and legal assistant were also designated to handle administrative duties, conflict case management, and caseload management for the two Divisions.

The reorganization into rough geographic areas of the State was based on a review of incoming cases for the past five years, which reflected roughly equal numbers of cases arising from each side of the dividing line. As cases may need to be moved to another division due to conflicts or case overload in one area of the State, some cases may be assigned to a division outside its geographic area.

HIGHLIGHTED ACCOMPLISHMENTS

An uptick in juvenile appeals in FY-2024 resulted in significant, life-altering decisions for youthful offender clients. Appellate Division East Attorney, Timmi Kline, successfully argued and obtained relief for youthful offender client C.A.D. in appellate case number J-2023-954. The appellate court ordered the District Court to “VACATE the adult sentence and DISMISS the underlying case.” (*emphasis in original*).

MaryAnn Grover, in a case argued for the Appellate Division West, successfully thwarted the State’s effort on appeal to have client M.C. sentenced as an adult after the District Court denied the State’s motion to do so. In appellate case number JS-2023-913, the appellate court affirmed the District Court, finding no abuse of discretion in the ruling allowing M.C. to remain eligible for youthful offender treatment.

Jacy Sullivan filed a brief in a youthful offender case of P.J. in FY-24, and in early FY-25 obtained reversal of the 25-year adult sentence imposed after the appellate court found the State’s actions at the trial court waived its opportunity to seek adult sentencing.

MaryAnn Grover also obtained a significant published win that limited the State’s efforts to prosecute pregnant women for pre-natal use of medical marijuana. In the case of Aguilar v. State, 2024 OK CR 16, the court found that the preliminary hearing judge correctly dismissed a charge of child neglect based on a claim that the defendant’s licensed (and therefore, legal) use of medical marijuana in the early stages of pregnancy was prohibited under a provision allowing prosecution of a person exposing a minor to the use . . . of “illegal drugs.”

Chad Johnson, Appellate Division East Deputy Division Chief, won recognition of the Wyandotte Reservation as not having been disestablished in State v. Fuller, 2024 OK CR 4. The State appealed the magistrate’s order in Ottawa County dismissing the prosecution for offenses alleged to have been committed by an Indian and occurring on Indian land. The appellate court agreed the state lacked jurisdiction to prosecute Mr. Fuller in this instance based upon the United States Supreme Court Decision in *McGirt v. Oklahoma*, 140 S.Ct. 2452, 2549 (2020).

Ariel Parry obtained a grant of certiorari for Jacqueline Mills in case number C-2023-538, in which she successfully argued the trial court erred in refusing to have a hearing on the motion to withdraw plea filed after the acceleration hearing in the case. In the revocation case for Bobbie Lee, Ms. Parry argued that the trial court’s order day-for-day incarceration violated the separation of powers. The State obtained an amended trial court order striking the day-for-day requirement, resulting in Ms. Lee’s release from custody within a week.

In a first-degree murder case briefed in the legacy Homicide Direct Appeals Division, James Lockard successfully obtained an FY-2024 published reversal for new trial in the case of *Alonzo Kelly III v. State*, 2023 OK CR 21, who the Court found was deprived of his right to self-representation at trial.

Several other cases obtained relief in the form of corrected judgment and sentences reflecting concurrent rather than consecutive sentencing, modified judgments, or vacating financial obligations.

**APPELLATE PROGRAM WORKLOAD
DURING FY-24**

CASES HANDLED

The reorganized Appellate Program handled 533 cases in various stages of completion during Fiscal Year 2024. Of those, 262 were handled by the Appellate Division East, and 271 were handled by the Appellate Division West.

Appellate Program Workload

Appeal Type	No.
Felony and Misdemeanor	
Direct Appeals:	293
Certiorari Appeals:	49
Revocation/Acceleration	
/Termination Appeals:	155
Death Penalty Direct Appeals:	5
Capital Post Conviction Appeals:	7
Juvenile/Youthful Offender Appeals:	10
State Appeals:	13
Response to State’s Extraordinary Writ:	1

Appellate Division East began November 1, 2023, with 154 cases at various stages of completion assigned to the attorneys working in that Division. An additional 108 new cases were assigned to the Appellate Division East between November 2023 and June 30, 2024, for a total of 262 cases handled by the Division during the remainder of the fiscal year.

Appellate East Workload

Appeal Type	No.
Felony and Misdemeanor: Direct Appeals:	132
Certiorari:	30
Revocation/Acceleration/ Specialty Court Appeals:	82
Death Penalty Direct Appeals:	1
Capital Post Conviction Appeals:	5
Juvenile/Youthful Offender Appeals:	4
State Appeals:	7
Extraordinary Writ (McGirt):	1

Appellate Division West began November 1, 2023, with 153 cases at various stages of completion assigned to the attorneys working in that Division. An additional 118 new cases were assigned to that Division between November 1, 2023, and June 30, 2024, for a total of 271 handled by the Appellate Division West during the remainder of the fiscal year.

Appeal Type	No.
Felony and Misdemeanor Direct Appeals:	161
Certiorari:	19
Revocation/Acceleration/ Specialty Court Appeals	73
Death Penalty Direct Appeals	4
Capital Post Conviction Appeals:	2
Juvenile / Youthful Offender Appeals:	6
State Appeals:	6

CASES BRIEFED

The Appellate Program filed 216 briefs in chief during FY-2024, including two capital direct appeal opening briefs, and a capital post-conviction application. In non-capital appeals, 101 opening briefs were filed in direct appeal cases, 23 in certiorari cases, 81 in revocation, acceleration or drug court termination cases, seven in juvenile appeals, and four response briefs in chief were filed in appeals lodged by the state. A response also was filed in a case

where the State filed an extraordinary writ against a district judge's ruling.

Types of Crimes in Non-Capital Direct Appeals:

Analysis of the types of crimes involved in the 101 direct appeal cases briefed by Program attorneys in FY-2024 showed that 19 involved non-capital first-degree murder and 8 involved other levels of homicide. Opening direct appeal briefs were also filed involving convictions for sexual crimes in 28 cases, other violent crimes in 25 cases, drug crimes in 10 cases, property crime in three cases, and a variety of other crimes (DUI, firearm possession, eluding, etc.) in 8 cases.

CASES CLOSED

The reorganized Appellate Program began with 307 open cases on November 1, 2023, added 226 new cases and closed 211 cases during the remainder of the fiscal year, leaving 322 cases open at the beginning of FY-2025. Of the cases closed, 133 were closed by decision of the appellate court, 23 were dismissed at client request, 11 were dismissed because of defects in the initiation of the appeal, and 11 revocation cases were dismissed as moot, either because the client was released from custody before the appeal could be decided, or the client received a greater sentence in another case to be served concurrently with the revoked sentence. Six cases were closed because the client retained counsel outside the agency, seven cases were contracted to outside counsel, and 11 cases were closed in one Division and transferred to another. Two cases were closed because the client died before the appellate court reached a decision.

The Appellate Division East began with 154 open cases on November 1, 2023, added 108 new cases, and closed 117 cases during the remainder of the fiscal year. The Appellate East Division carried over 145 cases into Fiscal Year 2025. Of the cases closed, 78 were closed by decision of the Court of Criminal Appeals. Fifteen cases were dismissed at client request, three cases

were dismissed due to defects in the initiation of the appeal and six revocation cases were dismissed as moot. Three cases were closed because the client retained private counsel and four cases were closed due to consolidation with other appeals for the same client. Seven cases were transferred to Appellate Division West for caseload equity purposes, and one case was contracted to outside counsel.

The Appellate Division West began with 153 open cases on November 1, 2023, added 118 cases, and closed 94 cases during the remainder of the fiscal year, carrying over 177 cases to FY-2025. Of the cases closed, 55 were closed by decision of the Court of Criminal Appeals. Eight were dismissed by client request, eight were dismissed because of defects in the initiation of the appeal, and five revocation cases were dismissed as moot. An additional six cases were closed because they were contracted to outside counsel, three cases were closed due to the client retaining outside counsel or because it was determined the agency was not appointed. Three cases were closed due to consolidation with other appeals for the same client, and four cases were transferred to Appellate Division East for caseload equity purposes. Two cases were closed because the client died before the appeal could be decided.

CAPITAL DIRECT APPEALS AND CAPITAL POST CONVICTION CASES

Existing capital cases were distributed equally between the two new Divisions, with six capital case assignments made to each Division. No new capital appeals arose in FY-2024, and future capital cases will be assigned with the direct appeal assignment to one division, and the capital post-conviction assignment to the other.

Experienced capital appellate counsel were divided between the Divisions, with Jamie Pybas, Wyndi Thomas Hobbs, Reginald Armor, and Taylor Ledford assigned to the Appellate Division East, and Scott Braden, Michael Morehead, and Jacy Sullivan assigned to

Appellate Division West. The goal of the Executive Director is to broaden the opportunities for attorneys to engage in the capital arena and grow a greater pool of capital-trained lawyers to handle these cases as experienced attorneys retire. This year, the reorganization has allowed four attorneys with no previous capital case filings to begin or continue training and working with experienced capital litigators in handling the appellate capital caseload.

Appellate Division East attorneys Reginald Armor and Jamie Pybas completed the research, record review and investigation and filed a brief in chief and request for evidentiary hearing in the capital direct appeal for David Ware during FY-2024. Taylor Ledford in Appellate Division East also filed a capital post-conviction application (Joseph Alliniece) in FY-2024, assisted by Sierra Holling from Appellate Division West (who was assigned as co-counsel before the reorganization). Chad Johnson, Danny Joseph, Mary Ann Grover, and Jamie Pybas began substantial work on two capital post-conviction applications (Derrick Laday, Daniel Vasquez) assigned to Appellate Division East, which will be filed in FY-2025. Two capital post-convictions assigned to the Appellate Division East and awaiting decision (Byron Shepard and Derek Posey) were denied in FY-2024.

In FY-2024 but prior to the reorganization in November, Scott Braden and Jacy Chafin Sullivan filed the death penalty direct appeal brief and request for evidentiary hearing on behalf of Derrick Laday. This case, and three other death penalty direct appeals (Derek Posey, Joseph Alliniece, Byron Shepard) were assigned to attorneys in the Appellate Division West in the reorganization. Of those, two (Alliniece and Laday) were awaiting briefing by the state, one (Posey) was awaiting oral argument, and one was fully briefed and awaiting decision (Shepard). During FY-2024, attorney Scott Braden filed Reply Briefs in Alliniece and Lada, and Michael Morehead

presented oral argument in Posey. After the state court denied a Petition for Rehearing in Shepard, Scott Braden filed a Petition for Writ of Certiorari to the United States Supreme Court, which was denied, resulting in the closure of the case.

The state court also affirmed the judgment and sentence in the Posey case and denied the Petition for Rehearing filed in FY-2024, leaving a Petition for Writ of Certiorari to the United States Supreme Court to be filed in FY-2025. Scott Braden also conducted the research, writing, and investigation to file the capital post-conviction case on behalf of William Reece, to be filed in FY-2025. Also assigned to Appellate Division West is the capital post-conviction case for David Ware, with a deadline to be triggered after the filing of the State's

response brief and Mr. Ware's Reply Brief in FY-2025.

Appellate Division West			
Cases Received by County			
November 1, 2023, to June 30, 2024			
Beckham	1	Kay	3
Caddo	2	Kingfisher	1
Canadian	3	Kiowa	2
Carter	2	Lincoln	1
Cleveland	23	Logan	4
Comanche	23	Noble	1
Cotton	1	Oklahoma	8
Custer	5	Pottawatomie	8
Dewey	1	Roger Mills	1
Garfield	7	Stephens	5
Garvin	3	Texas	4
Grady	2	Washita	1
Greer	1	Woodward	4
Jackson	3		
TOTAL 118			

Appellate Division East			
Cases Received by County			
November 1, 2023, to June 30, 2024			
Atoka	1	McIntosh	3
Bryan	1	Muskogee	10
Choctaw	2	Noble	3
Cleveland	1	Nowata	2
Comanche	1	Okfuskee	2
Creek	6	Okmulgee	1
Custer	1	Osage	2
Delaware	3	Ottawa	2
Hughes	1	Rogers	2
Kay	4	Sequoyah	1
Latimer	3	Tulsa	20
Lincoln	1	Wagoner	1
Mayes	5	Washington	4
TOTAL 108			

Conclusion

Keeping Gideon's Promise: New Challenges, New Opportunities.

Gideon v. Wainwright and its progeny promise all of us that if our liberty is placed in jeopardy through criminal prosecution, we have the right to competent legal representation to assist us in defending our constitutional rights. This promise is as critical now as ever if we hope to maintain the foundational principles of the United States of America and the Great State of Oklahoma. The defense of the liberty interests of the least powerful among us, the indigent, protects the liberty interests of all of us.

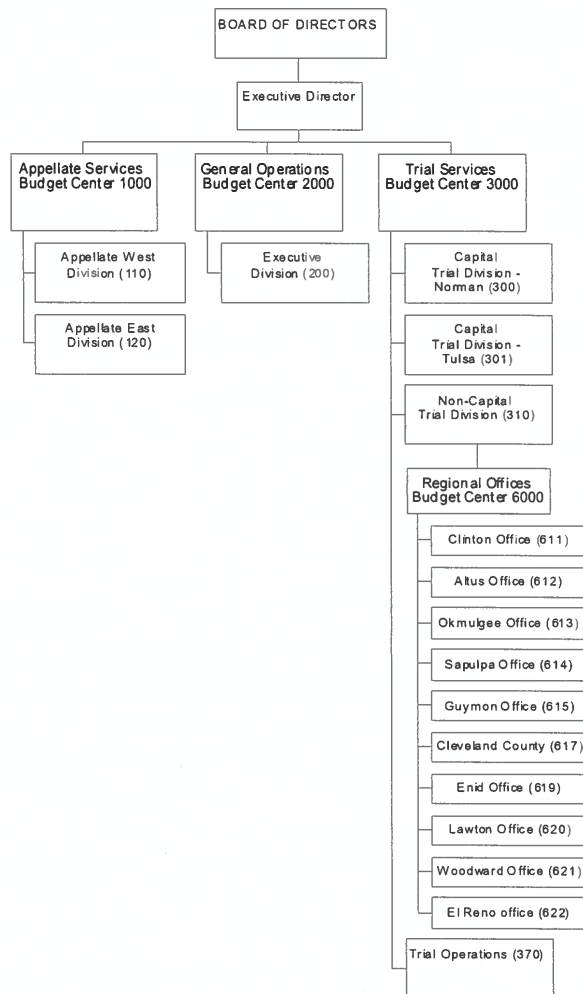
The Oklahoma Indigent Defense System's dedicated attorneys, investigators, and support staff continued to fulfill Gideon's promise in Fiscal Year 2024. The agency's clients received outstanding trial and appellate advocacy regardless of the charges they faced or the paucity of their resources.

Although our foundational principles remain constant, the Oklahoma Indigent Defense System must apply those principles to real life circumstances in an everchanging legal landscape. Legislation and judicial decisions provide opportunities for the agency to better serve its clients; however, these opportunities often require additional financial and human resources investments.

Opportunities to improve our clients' case dispositions, sentencing options, and prospects for rehabilitation require the agency's attorneys, investigators, and support staff to dedicate additional time and effort to thorough and zealous client advocacy. Recent changes in law include sentencing reform and court financial obligation reform legislation.

Although these legislative changes provide the agency better opportunities to help clients, these opportunities are only meaningful if the agency has resources to develop and present the courts with evidence in support of our clients' interests. The Oklahoma Indigent Defense System will continue to meet these challenges and seize these opportunities in Fiscal Year 2025. The agency looks forward to the continued support of the Legislature, the Governor, and the Judiciary as we continue to honor our shared principles and effectuate our common goals.

Oklahoma Indigent Defense System ORGANIZATIONAL CHART



OKLAHOMA INDIGENT DEFENSE SYSTEM
Non-Capital Trial Division
Actual FY-2024 Workload
July 1, 2023 through June 30, 2024

SUMMARY OF ALL CATEGORIES OF APPOINTMENTS

TYPE OF APPOINTMENT		FEL	JUV	MISD	TRAF	WL	YO	ALL
FY-2024 Contract <i>LESS</i> Conflicts and Rover Cases		9,523	906	6,795	177	9	42	17,452
Plus Contract Carry-Over from Prior Fiscal Years		7,197	464	3,732	208	4	18	11,623
Total Contract Workload		16,720	1,370	10,527	385	13	60	29,075
2024 Satellite Office <i>LESS</i> Conflicts and Rover Cases		6,950	786	5,559	183	0	38	13,516
Plus Satellite Office Carry-Over from Prior Fiscal Years		2,671	521	1,341	77	0	13	4,623
Total Satellite Office Workload		9,621	1,307	6,900	260	0	51	18,139
FY-2024 Conflicts	Contracts	28	0	7	0	0	1	36
	Satellite Offices	136	11	38	4	0	3	192
Conflicts Carryover from Prior Fiscal Years	Contract Counties	28	0	4	0	0	0	32
	Satellite Office Counties	93	2	17	2	0	0	114
FY-2024 Rover Cases	Contract Counties	18	0	0	0	0	0	18
	Satellite Office Counties	8	0	0	0	0	0	8
Rover Cases Carryover from Prior Fiscal Years		23	0	3	0	0	0	26
Total Conflicts and Rover Cases Workload		334	13	69	6	0	4	426
TOTAL FY-2024 NCT Workload		26,675	2,690	17,496	651	13	115	47,640