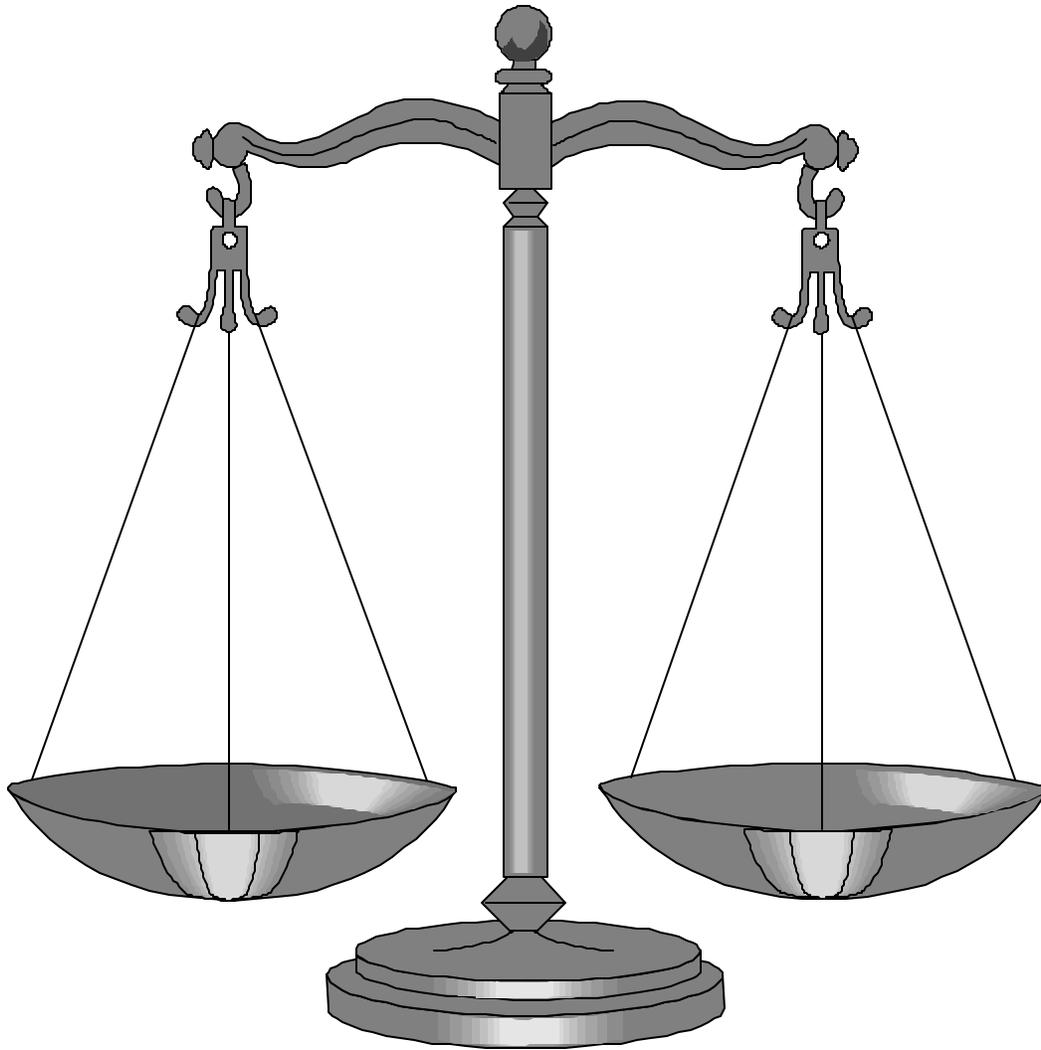


OKLAHOMA

INDIGENT DEFENSE SYSTEM



2001
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



FRANK KEATING
GOVERNOR

BOB A. RICKS
CABINET SECRETARY
SAFETY AND SECURITY

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Executive Director

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It is our privilege to submit a report concerning the duties, activities and accomplishments of the Oklahoma Indigent Defense System for the fiscal year ending June 30, 2001, in accordance with 22 O.S. § 1355.3(B) and 22 O.S. § 1355.4(C)(14).

PAUL BRUNTON, ESQ.
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The Oklahoma Indigent Defense System is grateful for the support that it received during Fiscal Year 2001 from the Governor and his staff, from the Legislature, and from the Judiciary.

JAKES JONES
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Oklahoma City, OK 73102

As we move forward in Fiscal Year 2002, we also acknowledge the professionalism of the staff at OIDS and the private attorneys, investigators, and experts who have demonstrated their dedication to our clients.

It is only through all of our efforts that the right to counsel is preserved and the interests of justice are assured.

Sincerely,

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chapter 1

– Introduction

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

OIDS fulfills the majority of the State's obligations under the Oklahoma and United States Constitutions to provide legal representation to certain Oklahoma citizens who are charged with criminal offenses.

OIDS was created after the Oklahoma Supreme Court decided *State v. Lynch*, 796 P.2d 1150 (Okl. 1990). The Supreme Court held that Oklahoma's method of compensating private attorneys in court-appointed criminal cases at the trial level was unconstitutional under the State Constitution.

In response to *Lynch*, the Oklahoma Legislature undertook sweeping reform of the State's delivery of criminal defense services. Legislative action resulted in the Indigent Defense Act which created OIDS as a new state agency under *Title 22 O.S. §§ 1355 et seq.*, effective July 1, 1991. The Act instituted major changes in the funding and delivery of defense services at trial and on appeal.

Before the enactment of the Indigent Defense Act, criminal appeals in court-appointed cases were the responsibility of the Oklahoma Appellate Public Defender System (APD). The APD began in 1979 as

a federally-funded project at the Oklahoma Center for Criminal Justice and by 1988 had evolved into a small state agency that represented indigents on appeal in state court and, in death penalty cases, in federal court.

The APD became a part of OIDS under the Indigent Defense Act in 1991 and continued its representation of indigents on appeal. The Act also created a division within OIDS to represent indigents at trial who were charged with capital murder offenses and directed OIDS to begin accepting court appointments to provide legal representation in non-capital cases in 75 counties beginning July 1, 1992, its second year of operation.

OIDS's responsibilities are defined by the Indigent Defense Act and have changed with statutory amendments over the ten-year history of the agency. The agency's fundamental duty is 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 agency consists of four program areas: the General Operations Program, the Trial Program, the Appellate Program, and the DNA Forensic Testing Program. The Trial Program consists of the Non-Capital Trial Division and two capital trial divisions: Capital Trial Norman and Capital Trial Tulsa. The Appellate Program contains the General Appeals Division, the Capital Direct Appeals Division and the Capital Post-Conviction Division. These programs and divisions are discussed in more detail throughout this

report.

OIDS received a total of 26,602 new court appointments in Fiscal Year 2001 in all Divisions of the agency. The breakdown by Division is as follows:

Capital Direct Appeals	36
Capital Post Conviction	32
Capital Trial - Tulsa	47
Capital Trial - Norman	51
General Appeals	700
Non-Capital Trial	
Staff	3,432
Conflicts	735
Contracts	21,541
Executive Division Conflicts	<u>28</u>
TOTAL	26,602

Given the nature of criminal cases, most cases 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 the prior year appointments in addition to the current year court appointments.

OIDS is appointed by the trial and appellate courts of Oklahoma after an indigency determination is made by the court. OIDS is subject to being appointed to provide legal representation in non-capital criminal cases in 75 of Oklahoma's 77 counties and, in some instances, to capital cases in Oklahoma and Tulsa Counties, which are served by county public defenders.

OIDS contracts with private Oklahoma-licensed attorneys to handle the indigent non-capital trial caseload in 61 counties. In 16 counties, staff attorneys employed by the System handle the indigent non-capital caseload. In two of these counties, responsibility for the non-capital trial indigent caseload is shared between contract attorneys and staff attorneys. Private attorneys handle the majority of the System's conflict cases.

In death penalty cases and non-capital appeals, attorneys employed by OIDS are assigned the case after OIDS has been

appointed by a district court or the Oklahoma Court of Criminal Appeals.

~ Funding

At the time of its creation in 1991, OIDS received federal funding as a federal resource center responsible for providing state and federal post-conviction and habeas representation in death penalty cases. This funding ended in October 1995, when Congress closed all of the federal resource centers in the country. OIDS was forced to seek State appropriations to replace the federal funds that had been used for state post-conviction representation.

During its ten-year history, OIDS repeatedly has been forced to seek supplemental appropriations from the Legislature. The first, received in early 1992, averted a shutdown of the agency soon after it was created. The original funding mechanism, a \$13.00 increase in statutory court costs on traffic tickets issued by the Oklahoma Highway Patrol, did not generate enough revenue for OIDS to meet its payroll.

OIDS funding for Fiscal Year 1993, through direct appropriations, included an additional \$6 million to finance the cost of contracting with private attorneys around the State to initiate OIDS's statewide defender services in non-capital trial cases in 75 counties. These fiscal-year contracts are awarded by the OIDS Board after considering offers to contract submitted by private attorneys on a county-by-county basis.

In Fiscal Year 1994, the Legislature reduced OIDS's appropriation by \$1 million based on a prediction that the difference in prior and current-year appropriations would be made up by revolving fund collections of OIDS's share of fees assessed against criminal defendants.

In Fiscal Year 1995, OIDS received no additional appropriated funds except for a state pay plan. Revolving fund income fell drastically, from \$1.5 million in Fiscal Year 1992 to \$94,079 in Fiscal Year 1995. This, combined with a 2.5% reduction in appropriated funds for Fiscal Year 1996 and

a loss of federal funding in October 1995, resulted in a supplemental appropriation in the amount of \$240,000 in the spring of 1996, \$1.4 million less than OIDS had requested.

In Fiscal Year 1997, OIDS suffered its worst funding crisis, caused by the combination of events that began in Fiscal Year 1996 and a veto of an appropriation of \$919,155 for Fiscal Year 1997. OIDS was unable to award county contracts for non-capital trial representation in Fiscal Year 1997, forcing OIDS to assign cases to private attorneys on a case-by-case basis at an hourly rate and much higher cost to the agency. In March 1997, OIDS received a supplemental appropriation in the amount of \$2.1 million for non-capital trial representation. For Fiscal Year 1998, OIDS received \$566,000 to annualize the supplemental appropriation.

At a meeting on August 8, 1997, the agency's governing Board accepted the resignation of the agency's executive director, who had served as agency head for five years. The current executive director selected by the Board assumed his duties on December 1, 1997. As a result of the change in management, the agency underwent an intensive review of all of its programs and identified deficiencies in the agency's capability to perform its duties.

For Fiscal Year 1999, the Legislature appropriated \$652,521 in additional funds for increased staffing in the Executive Division, a new telephone system, annualization of the costs of offices opened by the Board to represent clients in those counties where acceptable contracts with private attorneys could not be obtained, and to pay for state raises and benefits. Additional staff were added to address deficiencies in the agency's ability to track and report financial and caseload data, to provide data processing support, and to improve the agency's ability to comply with state and federal law.

By the fall of 1998, the Executive Director recognized that OIDS would not be able to meet its Fiscal Year 1999 obligations because of the continued effect of the non-capital trial representation crisis in Fiscal Year 1997. Management projected a \$1.3

million shortfall in funds needed for Fiscal Year 1999 professional services for both the Trial Program and the Appellate Program, including funds for private-attorney expenses, experts, and investigators in both capital and non-capital cases. A supplemental appropriation in that amount was obtained in the spring of 1999 and annualized in the OIDS appropriation for Fiscal Year 2000.

The OIDS appropriation for Fiscal Year 2001 was \$14,649,000. This amount is 2.5% of the total amount appropriated by the State of Oklahoma for all aspects of the criminal justice system in Fiscal Year 2001.

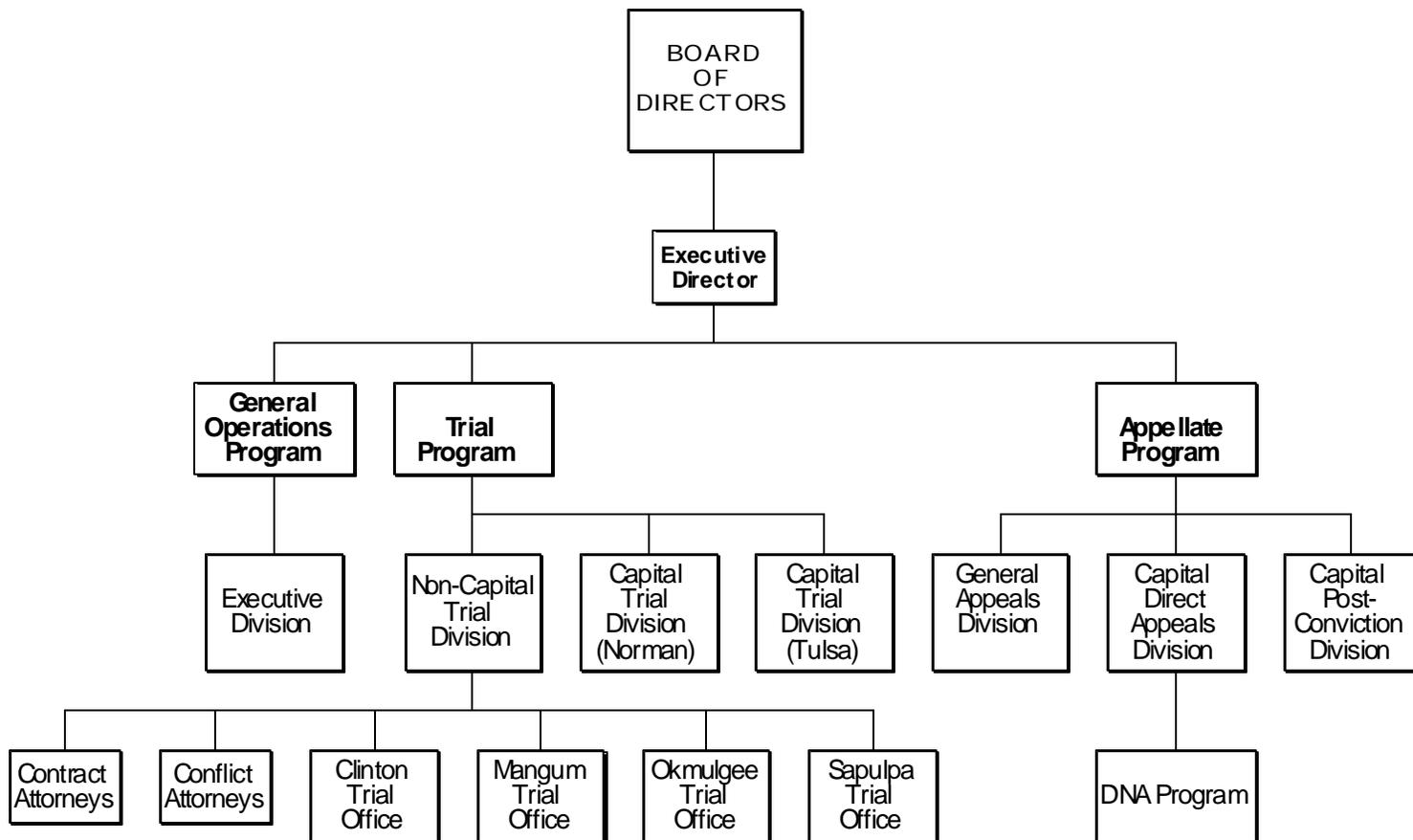
OIDS is funded by the Oklahoma Legislature through appropriations from the State's general revenue fund. OIDS also receives a varied and unpredictable amount of funds from the costs of representation assessed against a criminal defendant in certain cases. These assessments, authorized by Section 1355.14 of the Indigent Defense Act, if collected, are deposited in the Indigent Defense System Revolving Fund.

Each year, about half of OIDS's entire budget finds its way back into the Oklahoma economy through expenditures to private firms and individuals for professional and support services.

Historically, OIDS attorneys have been paid far less than the attorneys who represent the State in the same criminal cases. The disparity in salaries has led to a high turnover rate at OIDS. In 1999 OIDS sought appropriations to achieve salary parity with assistant district attorneys. The agency's efforts resulted in additional funds for Fiscal Year 2000 and Fiscal Year 2001 that allowed OIDS to move in the direction of paying its attorneys the same salaries as their counterparts in the criminal justice system. OIDS continues to make attorney salary parity a top priority for the agency.

Oklahoma Indigent Defense System

Organization Chart



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. The five members on the Board are appointed by the Governor with the advice and consent of the Senate.

To aid the Executive Director in the implementation of the Indigent Defense Act and agency operations, the Executive Division is staffed with administrative, finance and computer operations personnel.

OIDS provides legal representation through the services of staff members and by contracting with private attorneys, experts and investigators. OIDS employs 140 full-time staff members at its main offices in Norman and its satellite offices in Sapulpa, Okmulgee, Mangum, and Clinton.

In Fiscal Year 2001, the agency entered into 544 professional services contracts with private attorneys, experts, and investigators to provide defense services in court-appointed cases. The Executive Division services these contracts in addition to providing support services to

its staff attorneys and investigators.

~ Statutory Duties _____

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

~ Legislation _____

OIDS sponsored several pieces of legislation during the 1st Session of the

48th Legislature which were passed and signed by the Governor.

House Bill 1804 addressed the Oklahoma Indigent Defense Act, 22 O.S. § 1355, *et seq.* This bill was requested by OIDS to “clean-up” confusing and archaic language contained in the Act. The bill made no substantive changes to the manner in which services are provided to clients.

Senate Bill 397, referred to as the “Omnibus Criminal Justice Bill,” made numerous changes to the criminal justice system. OIDS sponsored two major amendments set forth in that bill:

- i. Increasing the felony threshold from \$50 to \$500 for various property crimes (e.g. embezzlement, bogus checks, credit card fraud, petit larceny, larceny of merchandise, etc.); and
- ii. Modification to the habitual offender statute, 21 O.S. § 51.1, by giving judges and juries more latitude in sentencing habitual offenders.

Pursuant to House Bill 1545, the agency received \$650,000 for the designated purpose of providing DNA forensic testing of certain cases prosecuted in Oklahoma County, Oklahoma, which involved the analysis and/or testimony of Oklahoma City Police Department Chemist Joyce Gilchrist.

Guidelines governing the preservation or discarding of DNA evidence were implemented in House Bill 1373, generally prohibiting the disposal of biological evidence in a case so long as the person convicted is still incarcerated on the crime charged. The bill permits the disposal of the evidence only after notice and the opportunity to object is given to the individual, his or her attorney and the OIDS DNA Forensic Testing Program.

Changes were made in the salaries paid to OIDS attorneys pursuant to House Bills 1545 and 1570, effective July 1, 2001. OIDS received a total of \$530,935 in additional funding to achieve salary

parity with district attorneys.

Senate Bill 454 raised the census threshold for a county from 200,000 to 300,000 before that county has to provide a county-funded public defender office. This bill was passed to ensure that OIDS, which has been providing high-quality legal services through its contractors in Cleveland County, Oklahoma, would continue to do so, despite Cleveland County’s population exceeding 200,000 in the latest census.

Senate Bill 1690, relating to the Oklahoma Sentencing Commission, was amended to include a representative from OIDS.

~ Website

OIDS built a new website during Fiscal Year 2000 to provide information about the agency, answers to most frequently asked questions, resources for public defenders and others interested in criminal law issues, and notices of training opportunities. The website can be accessed at www.state.ok.us/~oids or through the State website at www.state.ok.us, by scrolling to the Oklahoma State Agency Directory and selecting “Public Safety.” The site contains many links, including those for legal research, unpublished Court of Criminal Appeals opinions issued since July 2000, and official agency forms used by OIDS contractors, experts and investigators.

~ **Training Program**

The Indigent Defense Act requires OIDS to provide training for its staff members and private attorneys who are under contract with OIDS to accept court appointments. A training plan has been implemented that focuses on utilizing in-state and out-of-state experts to conduct seminars at Oklahoma locations for OIDS staff members and private attorneys.

FY 2001 OIDS-Sponsored Classes			
Date of Training	Type of Training	Presenter	CLE
November 14-15, 2000	Westlaw/Premise Training	Susan Lohse, West Group	2
January 30, 2001	Evidence Code Update	Wayne Woodyard	0
February 13, 2001	West Group Training	Susan Lohse, West Group	2
February 23, 2001	Client Communications	Kathy LaFortune	0
March 14, 2001	Juror Interviewing	Ruth Friedman	0
March 28, 2001	The Criminal Brief Primer	Judge Gary Lumpkin, Court of Criminal Appeals Allen Smith, Court of Criminal Appeals Tom Purcell	0
June 21, 2001	Nuts & Bolts of the Trial & Appellate Process -- Support Staff Training	Craig Corgan Matthew Haire	0
June 28-29, 2001	Criminal Defense Institute	various	12 / 1 et

– 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 providing defense representation for the agency's largest group of clients, with new court appointments now exceeding 25,000 criminal cases annually. NCTD is responsible for providing trial level indigent defense representation in all criminal cases where the potential sentence includes incarceration, up to life without the possibility of parole. The Division is responsible for legal defense services in seventy-five (75) counties.

In June 1997, due to problems in securing fiscal-year contracts covering

the entire caseload in twelve counties and a portion of the caseload in two others, the agency's governing Board directed management to open three non-capital trial offices (Clinton, Mangum and Okmulgee) to begin accepting the System's appointments in the affected counties as of September 1, 1997. In Fiscal Year 1999, the Board expanded the Mangum satellite office to cover a 15th county (Jackson) because no private attorney offered to contract for the work after offers were solicited a second time. In Fiscal Year 2000, the Board expanded the Mangum office to cover a 16th County (Tillman) after one contractor was allowed to cancel his contract. The Board also created a fourth satellite office (Sapulpa) for Creek County in September 1999, removing that county from the Okmulgee office caseload.

OIDS also assumed responsibility for providing non-capital trial defense services in Bryan County. Court appointments in Bryan County had been paid for by the Bryan County District Court Fund under a pilot project authorized in 1997 by Section 1355.8(M) of the Indigent Defense Act. OIDS entered into a fiscal-year, flat-rate contract effective July 1, 1999, with private attorneys to provide trial level indigent defense representation in Bryan County.

In prior fiscal years, the Clinton office handled only 25% of the Non-Capital Division appointments in Woodward county. In Fiscal Year 2001, the Board decided not to renew the flat-rate contract covering 75% of the Woodward County caseload, electing instead to have the Clinton satellite office assume responsibility for 100% of the Woodward County caseload.

The Non-Capital Trial Division satellite offices are staffed with 21 attorneys who handled 3,432 cases during Fiscal Year 2001.

Delivery of Non-Capital Trial Legal Services

In accordance with the Indigent Defense Act, NCTD provides legal representation in the seventy-five (75) counties for which it is responsible in three ways:

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

In Fiscal Year 2001, the Division's caseload was handled as follows:

- (1) **Flat-rate Fiscal Year Contracts:** In fifty-nine (59) counties, all NCTD representation was provided via such contracts. In one (1) other county (Blaine County), a portion of the Division's representation was provided by such contracts.
- (2) **Staffed Satellite Offices:** NCTD operated four (4) satellite offices: Clinton, Mangum, Okmulgee, and Sapulpa. These offices handled the entire caseload in fifteen (15) counties and part of the caseload in one (1) other. The Clinton Satellite Office provided representation in all indigent (delinquent) juvenile,

misdemeanor and traffic cases in Blaine County.

- (3) **Conflict/Overload Counsel:** Since Fiscal Year 1998, OIDS has made a concerted effort to ensure that Non-Capital Trial Division fiscal-year contracts are adequately staffed by giving weight, during the contracting process, to the number of law firms participating in an offer. In addition, as caseloads permit, the satellite offices, and in particular the Okmulgee and Sapulpa offices, continue to handle one another's conflict cases. During Fiscal Year 2001, NCTD assigned **735** conflict cases to conflict counsel.

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 rate. The Board awards fiscal-year contracts in June, after the System's appropriation bill has been signed into law but only a week or two before the contract term begins on July 1. The contracting process is volatile, not only in terms of the number of offers, if any, received for any particular county, but also the cost of any contract awarded. As a result, the agency's ability to provide contract coverage in many counties, especially the smaller, more rural ones, is unpredictable. Historically, the agency has spent one-third to one-half of its total budget on these fiscal-year contracts to provide non-capital legal representation.

When the agency is unable to obtain a fiscal-year contract for indigent criminal defense work in a county the Board has two options: (1) establish a satellite office with salaried attorneys to accept the System's appointments in the affected county under Section 1355.9 of the Indigent Defense Act or (2) assign the System's appointments in that county to

private attorneys who have agreed to accept cases on a case-by-case basis at established agency rates (\$60/hr. for in-court legal services; \$40/hr. for out-of-court legal services) under Section 1355.8(F)(6) of the Indigent Defense Act.

In Fiscal Year 2001, the Non-Capital Trial Division's satellite offices served the following counties:

Clinton Office

- C Custer
- C Dewey
- C Ellis
- C Roger Mills
- C Washita
- C Woodward
- C Blaine (*all of the Division's delinquent juvenile, misdemeanor, and traffic caseload*)

Mangum Office

- C Beckham
- C Greer
- C Harmon
- C Kiowa
- C Jackson
- C Tillman

Okmulgee Office

- C Okfuskee
- C Okmulgee

Sapulpa Office

- C Creek

Overall Caseload

In Fiscal Year 2001, the Non-Capital

Trial Division handled a total of 21,860 contract cases, of which 319 resulted in conflicts. As a result, 21,541 cases were handled under the contracts. OIDS Non-Capital Trial Division satellite offices handled 3,848 cases, of which 416 arose as conflicts. Total caseload for the division resulted in 25,708 cases. This represents an approximate caseload increase of 17% over Fiscal Year 2000.

Caseload Trends

Appendix A, pages A-1 thru A-3, reflects that the contract caseload for the state remains essentially level, while the satellite office caseload and the number of conflict cases have increased. The conflict case increase is largely attributable to an increase in multiple-defendant cases, most often involving manufacture of controlled substances. These multiple-defendant cases ethically and by statute require appointment of conflict counsel. The satellite office increases are in part due to the additional county representation added by the Board, and in part due to an increase in cases filed in some of the 16 counties covered.

The list of counties in order of descending caseload shows that Cleveland County had the highest number of cases (1,209), while Harper and Beaver had the lowest (24 each). The top ten counties accounted for almost 42% of the caseload, and the top twenty accounted for over 63% of the caseload (See Appendix A, Page A-4).

SUMMARY OF ALL CATEGORIES OF APPOINTMENTS

TYPE OF APPOINTMENT	FELONY	JUVENILE	MISDEMEANOR	TRAFFIC	TOTAL
Contract <i>WITH</i> Conflicts	13,290	2,646	5,369	555	21,860
Satellite Office <i>WITH</i> Conflicts	2,170	517	1,034	127	3,848
TOTAL APPOINTMENTS	15,460	3,163	6,403	682	25,708
Contract Conflicts	247	20	48	4	319
Satellite Office Conflicts	278	76	60	2	416
TOTAL CONFLICTS	525	96	108	6	735
Contract <i>LESS</i> Conflicts	13,043	2,626	5,321	551	21,541
Satellite Office <i>LESS</i> Conflicts	1,892	441	974	125	3,432
All Conflicts	525	96	108	6	735
TOTAL APPOINTMENTS	15,460	3,163	6,403	682	25,708

~ Capital (Death Penalty) Trial Representation

The Capital Trial Divisions in Norman and Tulsa are assigned the task of representing indigent defendants in cases where the State is seeking the death penalty. They further represent clients in Oklahoma and Tulsa Counties when the public defender has a conflict of interest. Legal services are provided by salaried attorneys and investigators, assisted in some cases by private attorneys under contract to serve as co-counsel and by contracts with expert witnesses.

The Capital Trial Divisions in Norman and Tulsa operate as separate law firms for conflict purposes. If one of the Divisions 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, the System contracts with private counsel to represent the client under the provisions of the Indigent Defense Act, Sections 1355.7 & 1355.8.

The Capital Trial Divisions began Fiscal Year 2001 with 46 pending cases. A total of 101 cases were handled during this time with 55 cases completed. Results of the capital trial cases concluded during Fiscal Year 2001 are shown in the chart below, and are further discussed by each division in the following sections.

Capital Trial Case Results

Norman and Tulsa Divisions

55 Cases Concluded

Acquittal	2
Death Sentence	2
Life Without Parole	8
Life	4
Charges Reduced	6
Death Penalty Dropped	15
Conflict of Interest	14
Private Counsel	1
DA declined to file	1
Murder Chrg Dismissed	2
Total	55

~ Capital Trial Division - Norman Office

The Capital Trial Division-Norman, was the agency's original Division to represent clients in death penalty cases. The Division represents defendants in capital cases filed in 46 counties (including Oklahoma County when the public defender has a conflict of interest) and has primary responsibility for conflicts arising in the remaining counties. In Fiscal Year 2001, the staff of the Capital Trial Division-Norman consisted of a chief attorney with administrative duties and a limited caseload, five first-chair trial attorneys, two second-chair trial attorneys, and four defense counsel for trial and appellate duties. The division employed seven investigative staff and three support staff.

Caseload

The Capital Trial Division-Norman began Fiscal Year 2001 with 21 pending death penalty cases. The Division received appointments in 30 new cases during the fiscal year, bringing the total caseload for Fiscal Year 2001 to 51 cases. By the end of the fiscal year 27 cases were concluded and 24 cases were carried over into Fiscal Year 2002.

Results of Cases Concluded

Result	No. Cases
Acquittal	1
Death Sentence	1
Life Without Parole	3
Life Sentence	2
Charges Reduced	3
Death Allegations Dropped	8
Conflict of Interest	5
Dismissals	2
D.A. Declined to File Charges	1
Private Counsel Retained	1
Total	27

Results of *three* cases tried in Fiscal Year 2001:

- " one death sentence;
- " one life without parole sentence;
- and
- " one acquittal.

Results from cases in which a *guilty plea* was entered:

- " two life without parole sentences;
- " two life sentences;
- " two reduced to murder in the second degree (one 25-year and one 35-year sentence); and
- " one reduced to accessory after the fact to a murder (5 years suspended to run consecutive to client's present sentence).

~ Capital Trial Division - Tulsa Office

The Capital Trial Division-Tulsa was created at the beginning of Fiscal Year 1997 to represent clients in counties in the Eastern-Northeastern area of the State. In Fiscal Year 1998, the staffing level in the Capital Trial Division-Tulsa was increased to permit the Division to accept appointments in 31 counties in the Eastern third of the State (including Tulsa County when the public defender has a conflict of interest), in addition to primary responsibility for conflicts arising in the remaining counties. In Fiscal Year 2001, the staff of the Capital Trial Division-Tulsa consisted of a chief attorney with administrative duties and a limited caseload, four first-chair trial attorneys, two second-chair trial attorneys, and three defense counsel for trial and appellate duties. The division employed five investigative staff and three support staff.

Caseload

Fiscal Year 2001, once again, was marked by unprecedented caseload growth for this division. The year began with a carryover of 22 cases pending from the previous fiscal year, as compared to 20 pending cases at the beginning of Fiscal Year 2000. The

Division opened 25 cases and by the end of the fiscal year, 28 cases were concluded and 19 cases were carried over into Fiscal Year 2002.

Results of *four* cases tried in Fiscal Year 2001:

- " one death sentence;
- " one life without parole sentence;
- " one life sentence; and
- " one acquittal.

Results of Cases Concluded

Result	No. Cases
Acquittal	1
Reduced to Juvenile Offender	1
Charges Reduced	2
Death Allegations Dropped	7
Life Sentence	2
Life Without Parole	5
Death Sentence	1
Conflict of Interest	9
Total	28

Results from cases in which a *guilty plea* was entered:

- " one reversed - certified as juvenile and sentenced to 10 years;
- " one reduced to accessory after the fact, and dismissed in exchange for a statement;
- " three life without parole sentences;
- " one life sentence;
- " one life sentence plus 20 years; and
- " one reduced to second degree murder and sentenced to 30 years.

chapter 4

– Appellate Program

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

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

The Appellate Program is appointed to represent clients in accordance with the Indigent Defense Act, Sections 1355 - 1369, and the Uniform Post-Conviction Procedure Act, Section 1089 (capital cases), of Title 22 of the Oklahoma Statutes.

~ 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 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 seventy-five (75) counties and in Oklahoma County and Tulsa County when the public defenders have a conflict of interest or where the defendant was represented by retained counsel at trial and is judicially determined to be indigent on appeal. Legal services are provided by salaried attorneys and, in rare cases, by a private attorney under contract at a flat rate after a case has been remanded to the trial court for a hearing. The cost of expert assistance and investigative services, if any, are funded in the Division budget.

If the General Appeals Division has difficulties meeting court deadlines because of an unusually high number of court appointments, the agency enters into flat-rate contracts with private

attorneys on a case-by-case basis to represent Division clients on appeal.

The filing of General Appeals Division cases cannot be delayed because of the decision by the Tenth Circuit Court of Appeals in *Harris v. Champion*, 15 F.3d 1538 (10th Cir. 1994). The agency was a defendant in the *Harris* class action litigation, brought by agency clients who alleged prejudice from delays in filing their briefs on appeal. The Tenth Circuit held there is a rebuttable presumption of a Due Process violation if a non-capital appeal has not been decided within two years of judgment and sentence, making it mandatory for the appellate attorney to file a brief within the deadlines established by the Court of Criminal Appeals.

If the General Appeals Division is unable to accept court appointments because of a conflict of interest arising from a prior court appointment, the agency enters into a flat-rate contract with a private attorney on a case-by-case basis to represent the client on appeal.

The General Appeals Division represented clients in a total of 700 cases during the course of Fiscal Year 2001. The year began with 294 open, active cases in various stages of appeal before the Court of Criminal Appeals, and another 406 cases were received by the Division during the year. The Division closed 385 cases, ending the fiscal year with 315 open cases carried into Fiscal Year 2002.

Attorneys in the General Appeals Division filed 293 briefs during Fiscal Year 2001, and contracted 23 to outside counsel. Of the cases briefed by Division attorneys, fifteen involved clients

sentenced to life imprisonment or life imprisonment without parole for conviction of first-degree murder. Division attorneys also handled reverse certification/youthful offender appeals in five cases where juveniles were charged with first degree murder. In addition, Division attorneys appeared for 69 oral arguments before the Court of Criminal Appeals in fast track cases, filed 27 reply briefs, two supplemental briefs and 10 petitions for rehearing. Five evidentiary hearings ordered by the Court of Criminal Appeals were also handled by the Division.

The Division closed 385 cases during the year, most due to the Court of Criminal Appeals reaching a final decision in the case. The Court decided 269 Division cases, and granted some type of relief in 26 percent of those cases. Additionally, 23 cases were closed because they were contracted to outside counsel; 66 appeals were dismissed either at the client's request or because the Court of Criminal Appeals lacked jurisdiction to hear them; 20 cases were closed because the System was not properly appointed to handle them; 4 cases were closed because outside counsel was retained by the client; and 3 cases were closed after being consolidated with another case.

Incoming Cases

New cases were received from 61 of the State's 77 counties, and approximately 1/3 were handled by retained counsel at the trial level. Cases arising from Oklahoma and Tulsa counties accounted for almost one-fourth (23 percent) of the incoming caseload. The number of cases received from each county is shown in Appendix B, Page B-1.

Cases Closed

<u>Reason for Closing</u>	<u>Number of Cases</u>	<u>%</u>
Decision of Court of Criminal Appeals	269	70%
Contracted to Outside Counsel (Conflict & Backlog)	23	6%
Rejected or Dismissed for Lack of Jurisdiction	66	17%
OIDs not properly appointed	20	5%
Outside Counsel Retained by Client	4	1%
Other (consolidated with another case)	3	1%
TOTAL	385	100%

~ Capital (Death Penalty) Appeals

The Capital Direct Appeals Division represents indigent defendants who have been convicted of murder in the first degree and sentenced to death in Oklahoma District Courts. This includes defendants who have been convicted at jury trials, bench trials, and after entering pleas of guilty. Although the Division's primary responsibility is to represent these defendants in their direct appeal to the Oklahoma Court of Criminal Appeals (OCCA), the Division often serves clients in three different courts.

OIDs is appointed by the district courts of Oklahoma to represent clients on direct appeal from the trial court to the Court of Criminal Appeals in cases where the defendant is sentenced to die. Direct appeal in a capital case also includes filing a petition for a writ of certiorari in the United States Supreme Court if the case is affirmed by the Court of Criminal Appeals.

The Capital Direct Appeals Division is appointed by the district courts in all 77

counties where the defendant was represented by retained counsel at trial but is judicially determined to be indigent on appeal, or where OIDs' capital trial divisions or Oklahoma County or Tulsa County public defenders have a conflict of interest.

At the beginning of Fiscal Year 2001, in an effort to reduce the need to raise ineffective assistance of counsel claims against agency attorneys and to enhance capital representation at the trial level, OIDs restructured the Capital Appellate Program. Personnel and resources were internally transferred from the Capital Direct Appeals Division to the two Capital Trial Divisions. Both the Capital Trial Division-Norman and Capital Trial Division-Tulsa began handling the direct appeals of cases tried by their respective Divisions which resulted in a sentence of death or life without parole. The Capital Direct Appeals Division will continue to handle the direct appeals of cases in which the client retained private counsel at trial but is judicially determined to be indigent on appeal or when the two capital trial divisions have a conflict of interest and an OIDs contract attorney is hired to represent the client at trial.

The appellate attorneys in the Capital Trial Division-Norman are appointed to perfect capital direct appeals in 46 counties (including Oklahoma County when the public defender has a conflict of interest), in addition to primary responsibility for conflicts arising in the remaining counties. Appellate attorneys in the Capital Trial Division-Tulsa are appointed by the district courts of 31 counties in the Eastern third of the State (including Tulsa County when the public defender has a conflict of interest), in addition to primary responsibility for conflicts arising in the remaining counties.

If the appellate attorneys in the two Capital Trial Divisions, the Capital Direct Appeals Division, or the Capital Post-Conviction Division are unable to accept court appointments because of a conflict of interest arising from a prior

court appointment, the agency enters into a flat-rate contract with a private attorney on a case-by-case basis to represent the clients on appeal.

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

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

Legal services in both Divisions are provided by salaried attorneys and investigators, assisted in some cases by a private attorney under contract at a flat rate after a case has been remanded to the trial court for a hearing.

~ Capital Direct Appeals Division

The Division is appointed by the District Court to represent the client in his direct appeal from that court's judgment and sentence. In many cases the Division will file a supplemental designation of the record with that court, and on occasion will represent the client at an evidentiary hearing in the District Court when the Oklahoma Court of Criminal Appeals (OCCA) remands the case back to the trial court for such a hearing. The direct appeal is heard and decided by OCCA. If OCCA affirms the judgment and sentence, the Division will represent the client in his attempt to obtain direct review in the United States Supreme

Court. This representation entails the filing of a Petition for a Writ of Certiorari and further briefing and oral argument in the Supreme Court if the writ is granted.

In the normal course of events the Division's representation does not end until relief is either obtained for the client or is denied in the Supreme Court. The usual exceptions are waivers of appeals by the client, or the death of a client.

While the Division's workload is normally limited to capital cases, in previous Fiscal Year 2000, for purposes of organizational economy and inter-divisional cooperation, the Division accepted appeals from first degree murder convictions where the sentence of death was not imposed. Although the Division did not accept any non-capital cases in Fiscal Year 2001, the statistics below include information regarding the Division's unresolved non-capital cases.

Caseload

After the restructuring of the Capital Appellate Program, the Capital Direct Appeals Division began Fiscal Year 2001 with 28 pending capital cases and eight (8) cases in which the client was convicted of murder in the first degree but sentenced to life or life without parole. By the end of the year, 15 capital cases and six (6) non-capital cases were closed, leaving the Division with 15 active cases, 13 of these being capital, and two (2) non-capital cases.

Source of New Cases for Fiscal Year 2001

Statewide Distribution

The Capital Direct Appeals Division receives death penalty cases tried by private or conflict counsel from all 77 counties of the State. Beginning in Fiscal Year 2001, the direct appeals of death penalty cases tried by OIDS' two

Capital Trial Divisions were handled by these respective Divisions unless a conflict of interest developed. Although Oklahoma and Tulsa Counties have their own public defender organizations which handle appeals of cases tried by lawyers from those agencies, the Capital Direct Appeals Division will occasionally receive cases when a conflict of interest prevents the Oklahoma County or Tulsa County public defenders from representing these clients in their direct appeals. The following is a breakdown of the distribution of Division cases among the various counties:

County

- Oklahoma 18%
- Tulsa 14%
- Cleveland 10%
- Rogers 10%
- Pittsburg 6%
- Grady 6%
- McIntosh 4%
- Osage 4%
- Creek 4%
- Noble 4%
- Tillman 4%
- Stephens 4%
- Bryan 4%
- Sequoyah 4%
- Comanche 4%

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

County

- Ⓒ Oklahoma 25%
- Ⓒ Tulsa 25%
- Ⓒ McIntosh 13%
- Ⓒ Comanche 13%
- Ⓒ Creek 12%
- Ⓒ Okmulgee 12%

Type of representation at trial.

Reflecting the change in the structure and mandate of the Capital Direct Appeals Division, 100% of the new cases received by the Division during Fiscal Year 2001 were tried by OIDS contract attorneys hired by the System when a conflict of interest developed at the trial

level.

Disposition of Cases

Of the six non-capital cases closed during Fiscal Year 2001, relief was obtained for one client who received a new trial from OCCA. Of the fifteen (15) capital cases closed last year, OCCA reversed and remanded one case for a new trial. Eleven (11) capital cases were closed after being affirmed by OCCA and denied certiorari by the United States Supreme Court. Three cases (14%) were closed because they were contracted out to private counsel.

~ Capital Post Conviction Division

In Fiscal Year 2001, the Capital Post Conviction Division represented 32 clients and assisted several clients in other divisions by providing expert and investigative support. The Division also represented clients in the following matters:

" Evidentiary hearing in which a client waived his appeals. After an execution date was set, the client changed his mind and the division facilitated the reinstatement of his appeal rights.

" Evidentiary hearing based on newly discovered evidence of innocence. Later in the year, the client's sentence was commuted to Life Without Parole by Governor Keating.

" The representation of a client in district court proceedings to determine his present sanity to be executed and asking for an execution date. After extensive work was conducted, on behalf of the client, the State withdrew its allegation that sanity had been restored and the District Court entered a finding that the client is presently insane. The client does not have an execution date at this time.

Although the Court of Criminal Appeals has rejected every capital post-conviction claim presented since 1996 (the date of the revised Post Conviction Act), the federal courts continue to grant relief on post-conviction claims in federal habeas corpus proceedings. In Fiscal Year 2001 alone, two capital prisoners were granted relief based on claims first raised by the Post Conviction Division. In *Battenfield v. Gibson*, the Tenth Circuit Court of Appeals granted a new sentencing trial based on the state court's failure to obtain a knowing and intelligent waiver of the defendant's right to present mitigating evidence. This claim was litigated by the Post Conviction Division in a district court evidentiary hearing and on appeal in 1997. In *McGregor v. Gibson*, the 10th Circuit Court of Appeals ordered a new trial because the state courts improperly rejected the defendant's claim under *Cooper v. Oklahoma*. The successful *Cooper* claim was first developed and presented by the Post Conviction Division in the state courts.

chapter 5

– DNA Forensic Testing Program

The DNA Forensic Testing Act, Title 22 O.S. §§ 1371, *et seq.*, became effective July 1, 2000, creating the DNA Forensic Testing Program. The Program is affiliated with the Capital Direct Appeals Division and is available to indigent persons who are presently incarcerated on felony offenses and have a claim of factual innocence based on scientific evidence. At the beginning of Fiscal Year 2001, the Program was staffed with two attorneys and an investigator. Before the Program could begin reviewing cases, application forms and procedures for the purpose of screening, assessing and selecting cases had to be created. During the first few months of the fiscal year, the staff completed the process of developing and implementing the structure of the Program and began reviewing and screening applications submitted by Oklahoma inmates. In accordance with the Act, once formal applications are received and reviewed, the Program is responsible for conducting a full assessment of the merits of the case before any testing is recommended on behalf of an inmate.

Total Cases

Since its inception, the Program has distributed 403 applications in response

to initial inquiries and requests. Forty-eight (48) inmates convicted in jurisdictions outside the State of Oklahoma were rejected by the Program. During Fiscal Year 2001, 203 Oklahoma inmates officially applied to the Program resulting in 39 of the cases being rejected and closed. These cases were closed because they either failed to meet Program criteria or viable test samples did not exist in the case. The remaining cases have been processed and reviewed, and are currently in various stages of screening and investigation.

In Fiscal Year 2001, the Program formally agreed to represent three Oklahoma inmates for purposes of obtaining DNA testing on biological evidence in their cases. The first case selected for testing by the Program resulted in an exoneration. DNA testing on two other cases was approved and the evidence processed but testing has not yet been completed. By the end of Fiscal Year 2001, the investigations in several other cases neared completion and the Program expects to formally request testing in these cases in the coming months.

Statewide Distribution of Applications

Official applications to the Program came from counties as shown in the following chart.

**~ Multi-Agency Investigation of
Oklahoma City Police Chemist
Joyce Gilchrist**

At the end of Fiscal Year 2001, the DNA Forensic Testing Program joined the Oklahoma State Bureau of Investigation and the Office of the Attorney General in forming a multi-agency task force to investigate the work of Oklahoma City Police Department Forensic Chemist, Joyce Gilchrist. The Program's primary role in the investigation will be to review Gilchrist's cases to determine the legal significance of her forensic analysis of the evidence to the inmate's conviction. The Legislature appropriated \$650,000 to the Program to fund DNA testing in cases recommended by the task force for additional testing.

DNA Applicant Convictions

Homicides	57
Sexual Assaults	118
Homicide/Rape	10
Assault/Battery	1
Other	17
Total	203

PROGRAM APPLICATIONS	
COUNTY	# APPS
Bryan	2
Caddo	2
Canadian	3
Carter	1
Cherokee	1
Choctaw	1
Cleveland	5
Coal	2
Comanche	5
Craig	3
Custer	1
Delaware	1
Garfield	4
Garvin	2
Grady	2
Harper	1
Haskell	1
Jackson	1
Kay	1
Kiowa	2
Marshall	1
Mayes	2
McCurtain	1
Murray	1
Muskogee	10
Noble	1
Oklahoma	81
Okmulgee	2
Osage	2
Ottawa	2
Payne	3
Pontotoc	3
Pottawatomie	6
Pushmataha	1
Rogers	2
Seminole	2
Sequoyah	1
Stephens	1
Texas	1
Tulsa	32
Wagoner	3
Washington	3
Woodward	1
TOTAL	203

Appendix A

**OKLAHOMA INDIGENT DEFENSE SYSTEM
NON-CAPITAL TRIAL DIVISION
4-YEAR HISTORY OF CONTRACT APPOINTMENTS**

COUNTY	FY-1998 Actual Annual Appts					FY-1999 Actual Annual Appts					FY-2000 Actual Annual Appts					FY-2001 Actual Annual Appts				
	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All
Adair	122	17	42	17	198	126	12	38	24	200	139	27	44	24	234	146	16	41	16	219
Alfalfa	18	2	11	0	31	22	1	7	0	30	31	3	11	0	45	30	2	13	0	45
Atoka	203	33	18	1	255	206	28	29	0	263	161	15	39	3	218	164	8	21	8	201
Beaver	10	1	1	0	12	19	1	4	0	24	14	1	3	0	18	24	2	1	0	27
Blaine (Fels only)	55	0	13	0	68	55	0	13	2	70	62	0	15	1	78	71	0	27	2	100
Bryan											327	19	103	9	458	306	21	100	24	451
Caddo	284	247	133	3	667	315	87	167	0	569	279	75	146	0	500	250	96	144	0	490
Canadian	266	120	170	65	621	277	119	229	67	692	294	157	282	101	834	280	146	250	107	783
Carter	446	23	117	13	599	446	38	130	24	638	360	25	141	10	536	397	20	175	8	600
Cherokee	177	164	29	32	402	122	88	32	40	282	165	108	42	21	336	166	74	34	3	277
Choctaw	195	4	83	13	295	193	11	94	18	316	230	8	69	12	319	268	12	39	6	325
Cimarron	17	0	1	0	18	11	0	4	0	15	16	1	7	0	24	71	1	22	0	94
Cleveland	858	103	360	0	1,321	742	120	267	0	1,129	820	125	277	3	1,225	813	143	253	0	1,209
Coal	70	19	29	15	133	59	12	31	3	105	79	5	65	36	185	68	3	47	15	133
Comanche	345	204	225	42	816	332	169	200	44	745	349	221	162	35	767	229	344	152	24	749
Cotton	25	14	20	0	59	15	24	31	0	70	34	7	42	1	84	33	8	43	3	87
Craig	114	40	60	0	214	139	22	111	19	291	124	18	104	2	248	89	20	49	0	158
Delaware	238	33	205	0	476	170	41	157	0	368	271	34	188	0	493	250	36	200	0	486
Garfield	402	140	170	0	712	475	99	202	0	776	531	129	208	0	868	452	123	192	0	767
Garvin	218	109	188	41	556	238	63	226	50	577	313	98	211	63	685	383	66	224	34	707
Grady	249	209	85	0	543	306	231	140	0	677	258	147	90	0	495	211	82	107	0	400

**OKLAHOMA INDIGENT DEFENSE SYSTEM
NON-CAPITAL TRIAL DIVISION
4-YEAR HISTORY OF CONTRACT APPOINTMENTS**

COUNTY	FY-1998 Actual Annual Appts					FY-1999 Actual Annual Appts					FY-2000 Actual Annual Appts					FY-2001 Actual Annual Appts				
	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All
Grant	35	6	10	0	51	29	0	23	0	52	14	0	19	0	33	19	0	16	0	35
Harper	33	0	2	0	35	20	2	9	0	31	19	2	7	0	28	13	7	4	0	24
Haskell	87	0	62	0	149	99	4	37	2	142	73	0	24	0	97	85	0	33	0	118
Hughes	117	10	15	0	142	125	12	28	0	165	133	11	18	0	162	88	6	23	5	122
Jackson	135	85	9	0	229															
Jefferson						38	2	12	0	52	41	0	7	0	48	71	2	13	0	86
Johnston	115	18	85	16	234	72	1	25	3	101	76	4	46	0	126	65	0	37	9	111
Kay	460	159	127	39	785	484	138	120	37	779	416	167	141	12	736	614	142	250	87	1,093
Kingfisher	45	8	51	2	106	71	7	58	0	136	49	6	27	7	89	35	4	27	5	71
Latimer	84	23	173	10	290	88	17	156	8	269	89	10	178	11	288	140	2	193	13	348
LeFlore	274	5	35	5	319	299	22	81	19	421	358	12	64	29	463	393	20	41	39	493
Lincoln	131	19	36	0	186	134	21	23	0	178	154	13	41	0	208	107	32	43	0	182
Logan	118	34	56	0	208	93	25	38	0	156	122	33	53	4	212	116	24	24	4	168
Love	36	2	9	0	47	45	5	10	23	83	40	0	23	12	75	53	1	15	5	74
Major	21	7	29	0	57	22	11	20	0	53	23	6	20	0	49	25	7	15	0	47
Marshall	49	6	14	0	69	56	2	18	1	77	63	10	17	1	91	95	2	31	0	128
Mayes	162	49	73	19	303	203	74	75	7	359	186	51	74	1	312	222	34	83	2	341
McClain	237	18	131	0	386	278	92	191	0	561	216	98	152	0	466	196	101	140	0	437
McCurtain	314	35	19	5	373	318	38	37	3	396	414	28	34	1	477	423	33	33	7	496
McIntosh	145	39	46	3	233	168	31	76	13	288	181	63	68	3	315	168	53	92	3	316
Murray	91	58	42	26	217	176	25	47	15	263	133	6	34	3	176	148	11	58	16	233
Muskogee	639	49	45	1	734	767	89	66	0	922	758	56	74	0	888	851	68	70	0	989

**OKLAHOMA INDIGENT DEFENSE SYSTEM
NON-CAPITAL TRIAL DIVISION
4-YEAR HISTORY OF CONTRACT APPOINTMENTS**

COUNTY	FY-1998 Actual Annual Appts					FY-1999 Actual Annual Appts					FY-2000 Actual Annual Appts					FY-2001 Actual Annual Appts				
	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All	F	J	M	T	All
Noble	39	16	39	0	94	52	13	50	0	115	76	9	39	0	124	72	22	53	1	148
Nowata	64	12	36	0	112	81	13	24	1	119	63	8	52	3	126	81	29	71	6	187
Osage	186	14	11	0	211	251	40	31	8	330	253	44	31	14	342	212	44	14	4	274
Ottawa	326	39	77	0	442	356	70	178	0	604	387	86	144	0	617	444	141	143	4	732
Pawnee	90	15	91	2	198	100	10	69	1	180	94	11	34	3	142	83	8	49	2	142
Payne	485	72	259	0	816	408	93	317	6	824	418	39	318	0	775	455	66	316	0	837
Pittsburg	371	47	122	0	540	436	54	159	0	649	495	70	121	0	686	464	61	167	0	692
Pontotoc	246	46	37	4	333	216	44	43	3	306	286	34	51	4	375	213	45	49	9	316
Pott.	332	96	89	0	517	560	277	334	33	1,204	539	236	385	65	1,225	539	79	415	10	1,043
Push.	70	16	46	2	134	67	6	45	9	127	94	6	41	8	149	124	7	37	2	170
Rogers	274	70	86	4	434	238	50	131	16	435	180	54	40	3	277	186	35	39	0	260
Seminole	245	46	92	56	439	293	49	93	78	513	332	33	146	114	625	301	49	117	58	525
Sequoyah	219	21	6	0	246	259	40	16	0	315	351	32	14	0	397	312	32	7	0	351
Stephens	240	27	134	1	402	182	31	126	1	340	294	29	140	1	464	249	12	145	9	415
Texas	146	28	28	0	202	154	39	31	0	224	145	25	18	0	188	168	23	24	0	215
Tillman	56	30	37	6	129	61	70	18	0	149										
Wagoner	185	98	62	4	349	200	126	69	0	395	220	86	50	0	356	216	99	77	0	392
Wash.	374	134	156	0	664	513	212	226	0	951	423	135	233	0	791	493	114	243	5	855
Woods	38	9	28	0	75	29	16	32	0	77	20	14	27	0	61	50	8	28	0	86
Woodwrd	86	27	18	2	133	142	23	52	6	223	129	26	40	0	195					
TOTALS	11,712	2,975	4,483	449	19,619	12,451	3,060	5,306	584	21,401	13,214	2,776	5,294	620	21,904	13,290	2,646	5,369	555	21,860

NON-CAPITAL TRIAL DIVISION
FY-2001 Ranking of Caseloads by Counties
 (Conflict Cases NOT Included)

County	# of Appts	County	# of Appts	County	# of Appts
1. Cleveland	1,209	27. Jackson	352	53. Marshall	128
2. Kay	1,056	28. Sequoyah	349	54. Coal	123
3. Pottawatomie	1,041	29. Latimer	342	55. Hughes	122
4. Muskogee	987	30. Mayes	341	56. Haskell	114
5. Washington	854	31. Choctaw	325	57. Johnston	111
6. Creek	794	32. McIntosh	315	58. Noble	111
7. Canadian	783	33. Pontotoc	313	59. Cimarron	94
8. Garfield	765	34. Woodward	312	60. Cotton	87
9. Payne	748	35. Osage	274	61. Jefferson	86
10. Comanche	747	36. Cherokee	267	62. Washita	85
11. Ottawa	730	37. Rogers	256	63. Greer	71
12. Garvin	707	38. Murray	233	64. Kingfisher	71
13. Pittsburg	692	39. Adair	219	65. Love	69
14. Carter	600	40. Kiowa	207	66. Woods	65
15. Custer	523	41. Beckham	208	67. Dewey	62
16. Seminole	517	42. Texas	200	68. Major	47
17. McCurtain	496	43. Atoka	199	69. Ellis	36
18. Caddo	490	44. Nowata	187	70. Grant	35
19. Delaware	486	45. Blaine	183	71. Alfalfa	34
20. LeFlore	470	46. Lincoln	180	72. Roger Mills	30
21. Bryan	451	47. Logan	164	73. Harmon	26
22. McClain	435	48. Pushmataha	162	74. Harper	24
23. Stephens	414	49. Craig	158	75. Beaver	24
24. Grady	400	50. Pawnee	142		
25. Wagoner	392	51. Okfuskee	130		
26. Okmulgee	383	52. Tillman	130		
				75-County TOTAL	24,973

Appendix B

APPENDIX B
GENERAL APPEALS DIVISION
FY 2001 INCOMING CASES

<u>County</u>	<u>New Cases Received</u>		
Adair	1	Mayes	3
Alfalfa	0	McClain	2
Atoka	2	McCurtain	5
Beaver	2	McIntosh	3
Beckham	10	Murray	4
Blaine	1	Muskogee	23
Bryan	12	Noble	2
Caddo	4	Nowata	1
Canadian	2	Okfuskee	3
Carter	8	Oklahoma	61
Cherokee	0	Okmulgee	6
Choctaw	12	Osage	7
Cimarron	0	Ottawa	8
Cleveland,	15	Pawnee	3
Coal	1	Payne	7
Comanche	10	Pittsburg	5
Cotton	2	Pontotoc	3
Craig	1	Pottawatomie	12
Creek	6	Pushmataha	1
Custer	6	Roger Mills	0
Delaware	6	Rogers	2
Dewey	0	Seminole	9
Ellis	2	Sequoyah	1
Garfield	13	Stephens	21
Garvin	1	Texas	0
Grady	8	Tillman	0
Grant	2	Tulsa	32
Greer	1	Wagoner	5
Harmon	0	Washington	4
Harper	0	Washita	2
Haskell	0	Woods	0
Hughes	0	Woodward	0
Jackson	1	TOTAL	* 406
Jefferson	4		
Johnston	1		
Kay	5		
Kingfisher	0		
Kiowa	1		
Latimer	5		
Leflore	10		
Lincoln	5		
	New Cases Received		
<u>County</u>			
Logan	10		
Love	1		
Major	0		
Marshall	0		