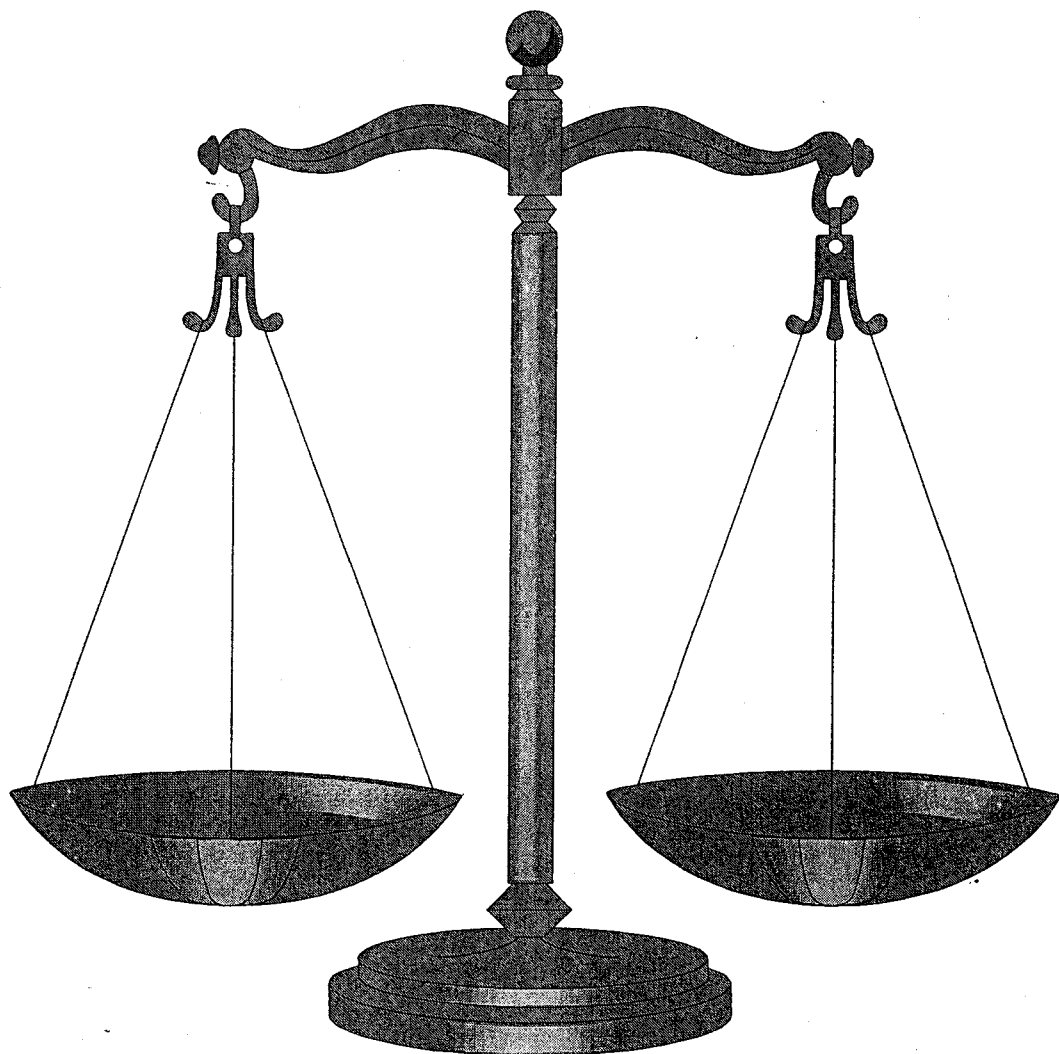


OKLAHOMA

INDIGENT DEFENSE SYSTEM



2005 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



BRAD HENRY
GOVERNOR

KEVIN WARD
CABINET SECRETARY
SAFETY AND SECURITY

JAMES D. BEDNAR
Executive Director



BRAD HENRY
GOVERNOR

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September 23, 2005

JAKE JONES III, ESQ.,
Vice-Chair
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2350 Bank One Center
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TO THE HONORABLE BRAD HENRY
HONORABLE MIKE MORGAN
HONORABLE TODD HIETT
HONORABLE JOSEPH M. WATT
HONORABLE CHARLES S. CHAPEL

PAUL BRUNTON, ESQ.
3507 S. Lewis
Tulsa, OK 74105

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, 2005, in accordance with 22 O.S. § 1355.3(B) and 22 O.S. § 1355.4(C)(14).

DON G. POPE, ESQ.
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The Oklahoma Indigent Defense System is grateful for the support that it received during Fiscal Year 2005 from the Governor and his staff, from the Legislature, and from the Judiciary.

RANDOLPH S. MEACHAM, ESQ.
525 S. 30th Street
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Clinton, OK 73601-1236

As we move forward in 2006, we would like to recognize all of the attorneys, investigators, administrators, secretaries and experts for their commitment to our mission and their unwavering dedication to our clients. We also wish to acknowledge the work and dedication of the private attorneys who serve generously as OIDS contractors. It is only through the efforts of all of these individuals that the right to counsel flourishes in Oklahoma and the interests of justice are protected.

Sincerely,

Rod Wiemer, Esq.
Chair

Jake Jones, Esq.
Vice-Chair

Paul Brunton, Esq.

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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*, 1990 OK 82, 796 P.2d 1150. 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 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' responsibilities are defined by the Indigent Defense Act and have changed with statutory amendments over the thirteen-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 represented a total of 39,594 court appointments in Fiscal Year 2005 in all divisions of the agency. The breakdown by division is as follows:

NON-CAPITAL TRIAL

<i>Staff</i>	7,229
<i>County Contracts</i>	30,955

<i>Conflicts</i>	433
<i>Overload</i>	147
CAPITAL TRIAL - NORMAN	34
CAPITAL TRIAL - TULSA	42
GENERAL APPEALS	609
CAPITAL DIRECT APPEALS AND DNA PROGRAM	73
CAPITAL POST CONVICTION	45
EXECUTIVE DIVISION CONFLICTS	
<i>Capital Trial Divisions</i>	6
<i>Non-Capital Direct Appeals</i>	7
<i>Capital Direct Appeals</i>	4
<i>Capital Post Conviction</i>	10
TOTAL	<u>39,594</u>

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 appointments pending from the prior fiscal year in addition to the current year court appointments.

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 non-capital criminal cases in 75 of Oklahoma's 77 counties.

OIDS contracts with private Oklahoma-licensed attorneys to handle 100% of the indigent non-capital trial caseload in 59 counties and a portion of the caseload in one county. In 16 counties, staff attorneys handle the majority of the indigent caseload, with overload cases handled by private contract counsel. Private attorneys handle the majority of the System's conflict cases and all overload cases.

In death penalty cases and non-capital appeals, attorneys employed by OIDS are assigned the case after OIDS has been appointed by a district court or the Oklahoma Court of Criminal Appeals.

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 thirteen-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' 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 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 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. In Fiscal Year 1996, OIDS' appropriations were reduced by 2.5%, followed by the loss of all federal funding in October 1995. OIDS requested a Fiscal Year 1996 supplemental appropriation of \$1.4 million, but only received \$240,000.

In Fiscal Year 1997, OIDS again suffered a funding crisis. The effect of the previous fiscal year's funding losses was compounded by the veto of an

appropriation of \$919,155 for Fiscal Year 1997. These funding losses resulted in OIDS being fiscally unable to award annual contracts to the private attorney providers for non-capital trial representation. OIDS was forced to assign cases to private attorney providers on a case-by-case basis at hourly rates. The result was significantly higher costs to the agency. In March 1997, OIDS received a supplemental appropriation in the amount of \$2.1 million to fund the non-capital trial representation costs.

In Fiscal Year 1998, OIDS received \$566,000 in additional appropriations to annualize the previous year's supplemental appropriation. After five years of service, the previous Executive Director submitted his resignation to the agency's governing Board on August 8, 1997. The Board selected the current Executive Director, who assumed his duties on December 1, 1997. With the change in agency management, an intensive review of all of OIDS programs began. Many deficiencies in OIDS delivery of services were identified.

For Fiscal Year 1999, OIDS received \$652,521 in additional appropriations to address some of the identified deficiencies. This additional funding was used to pay for mandatory state pay raises and increased benefit costs, a much needed new telephone system, increased staffing in the Executive Division, and costs associated with the opening of satellite offices by the Board to represent the non-capital trial clients in those counties where acceptable contracts with private attorney providers could not be obtained. The additional staffing was added to address identified deficiencies in OIDS' 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 and Appellate Programs, 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.

The Fiscal Year 1999 supplemental appropriation was subsequently added to the agency's appropriation base beginning with Fiscal Year 2000. This annualized appropriation enabled the agency to continue to contract with and pay its conflict and overload attorneys, expert witnesses, investigators and translators.

For Fiscal Year 2002, OIDS' initial base appropriation amount was \$16,042,393. However, beginning in January 2002, a state-wide revenue shortfall resulted in across-the-board allocation reductions by the Oklahoma Office of State Finance. The agency's allocation reductions totaled \$607,354 in Fiscal Year 2002, leaving it with an actual appropriation in the amount of \$15,435,039 by the end of the year.

During May 2002, the Executive Director developed a plan to ensure better and more cost-effective expert services were provided to agency clients. He created two separate areas within the Executive Division to address all of OIDS' client needs for forensic and psychological services. The Chief of Forensic Services, a DNA Expert, and the Chief of Psychological Services, an attorney/psychologist, assists the Executive Director in determining what services are appropriate for each individual client. These two OIDS professionals meet with attorneys and experts, and either perform the requested testing or evaluation for the client, or make recommendations to the Executive Director as to the appropriate expert to be used. This process enables the agency to be more effective and utilize tax dollars more efficiently.

OIDS' initial base appropriation amount for Fiscal Year 2003 was reduced by \$802,120. Beginning in September 2002, the continuing statewide revenue shortfall resulted in new allocation reductions, totaling \$1,196,361 through the remainder of the fiscal year.

To address funding reductions, OIDS initially implemented a furlough plan beginning July 2002. The furlough plan provided that all agency employees would be furloughed a maximum of two days without pay per pay period. The plan continued until September 2002.

The rapidly deteriorating budget picture forced OIDS to take further drastic measures. It adopted a reduction-in-force plan, which eliminated 27 positions, including 10 attorney positions, effective December 31, 2002. While the reduction-in-force hindered the agency's ability to effectively represent its clients, the lack of adequate funding left it with no viable alternatives.

Another critical measure taken by OIDS was to decline to enter into private conflict counsel contracts, where agency attorneys or county contract attorneys were unable to provide representation due to a conflict of interest. The agency filed motions to vacate agency appointments in conflict cases arising throughout the state, on the basis that unencumbered funds did not exist to pay for conflict counsel, and to enter into such contracts would violate the State Constitution, as well as the Central Purchasing Act and the Oklahoma Criminal Code. The District Court of Kay County denied two such motions filed in two separate criminal cases, prompting the agency to seek a writ of prohibition against the district court in the Oklahoma Supreme Court. Upon refusal of the Oklahoma Supreme Court to assume original jurisdiction, the district court issued contempt citations against the Executive Director directing him to show cause why he should not be held in contempt for refusing to provide conflict counsel. The contempt citations prompted the Executive Director to file a petition for writ of prohibition in the Oklahoma Court of Criminal Appeals.

On November 26, 2002, the Court of Criminal Appeals issued its order in *Bednar v. District Court of Kay County*, 2002 OK CR 41, 60 P.3d 1. The court first held that contempt proceedings were not properly before the court, as other adequate remedies existed. However, the court stated that the issues presented in the case were complex and involved multiple conflicting constitutional and statutory provisions, such as the prohibition from entering into a contract if unencumbered funds are unavailable. The court further stated that the case raised important separation of powers questions and potential conflicts in jurisdiction between it and the Oklahoma Supreme Court. More importantly, the court affirmed the *State's* ultimate responsibility to provide counsel, regardless of whether counsel is furnished and paid by OIDS, the court fund or the general fund. Therefore, the court ordered the

district court to provide counsel at State expense by December 6, 2002, or the defendants in the underlying criminal cases would be released.

As a result, the Governor-Elect, the Senate President Pro Tempore Designate, the Speaker of the House, and the Chief Justice and Vice-Chief Justice of the Oklahoma Supreme Court entered into an agreement providing that the court fund would guarantee payment for conflict counsel representation until the Legislature provided supplemental funding. The agreement became effective December 5, 2002. OIDS was then able to enter into contracts with private conflict counsel to provide representation to its clients. In May 2003, OIDS received a \$600,000 supplemental appropriation for the purpose of payment for conflict counsel. After the end of the fiscal year, OIDS received \$174,123 in additional allocations as a result of better than expected state-wide collections.

A continually increasing caseload, coupled with a reduced staff due to the fiscal year 2003 reduction-in-force, left the agency with caseload numbers per staff attorney greatly exceeding the maximum set by national standards. In response, the Legislature passed a supplemental appropriation during fiscal year 2005 in the amount of \$1,000,000 to enable the agency to contract with private attorneys to reduce the burgeoning caseload in the appellate and non-capital trial Divisions.

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.

The agency would note that each year, about half of its entire budget finds its way back into the Oklahoma economy through expenditures to private firms and individuals for professional and support services.

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 employed 130 full-time staff members at its main offices in Norman and its satellite offices in Sapulpa, Okmulgee, Mangum, and Clinton.

In Fiscal Year 2005, the agency entered into 282 new professional services contracts with private attorneys, experts and investigators to provide defense services in court-appointed cases. This number reflects a decrease from the previous fiscal year due to the utilization of master contracts for conflict case representation. The Executive Division services these contracts in addition to providing support services to its staff attorneys and investigators.

Statutory Duties

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

WEBSITE

OIDS' website provides information about the agency, resources for public defenders and others

interested in criminal law issues, and answers to most frequently asked questions and notices of training opportunities. The website can be accessed at www.oids.ok.gov. The OIDS website 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.

OIDS co-sponsored the Patrick A. Williams Criminal Defense Institute held June 23-24, 2005 in Oklahoma City. It included presentations on such diverse topics as jury selection, sentencing and ethical dilemmas encountered by the prosecution and defense.

CONFLICT CASELOAD

During Fiscal Year 2005, the Executive Division contracted with outside attorneys for representation on a total of nine cases.

The year began with six pending death penalty cases. One death penalty case was concluded, and five were carried over into Fiscal Year 2006.

The Executive Division started Fiscal Year 2005 with three pending capital direct appeal cases and received one new case. Two cases were concluded, and two were carried over into Fiscal Year 2006.

Two non-capital appeal cases were pending at the beginning of the year, with the Division receiving five new conflict appointments during this period of time. Three cases were concluded with a total of four carried into Fiscal Year 2006.

The Executive Division began Fiscal Year 2005 with seven pending capital post conviction cases, with three new appointments received and two cases concluded during this period of time. Eight cases were carried into Fiscal Year 2006.

Chapter 3

◆ Trial Program

The Trial Program consists of three Divisions which provide legal representation to agency clients who have been judicially determined to be unable to afford counsel to defend against criminal charges brought by the State in district court. OIDS is appointed by the district courts to represent these defendants.

The right to counsel at State expense was established by the United States Supreme Court in *Gideon v. Wainwright*, 371 U.S. 335 (1963). The right to expert assistance at State expense was established by the United States Supreme Court in *Ake v. Oklahoma*, 470 U.S. 68 (1985).

NON-CAPITAL TRIAL DIVISION

The Non-Capital Trial Division (NCTD) is responsible for defending indigent criminal defendants charged with offenses punishable by incarceration. Cases range from traffic offenses filed in state court to non-capital first degree murder. NCTD's area of responsibility spans 75 counties, with Oklahoma and Tulsa Counties being excluded. Thus, NCTD represents the agency's largest group of clients. In Fiscal Year 2005, new appointments equaled 28,936. New appointments in Fiscal Year 2005 exceeded those in Fiscal Year 2004 by 275 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 three ways:

- (1) flat-rate fiscal year contracts with private attorneys;
- (2) satellite offices with salaried staff attorneys; and
- (3) assignment of conflict and overload 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 2005, the Division's caseload was handled as follows:

- (1) Flat-rate Fiscal Year Contracts: In 59 counties, all NCTD representation was provided via such contracts. In one other county (Blaine), a portion of the Division's representation was provided via contract.
- (2) Staffed Satellite Offices: NCTD operated four satellite offices: Clinton, Mangum, Okmulgee and Sapulpa. These offices handled the entire caseload in 15 counties and part of the caseload in one other. The Non-Capital Trial Division satellite offices ended Fiscal Year 2005 staffed with 22 attorneys. Over the course of the fiscal year, the offices handled 7,229 active cases. On average, each staff attorney handled 329 cases for the year – 181 felonies, 45 juvenile cases; 89 misdemeanor cases and 14 traffic cases. According to a formula utilized by the National Legal Aid and Defenders Association, in Fiscal Year 2005 each satellite office attorney did the work of 1.70 attorneys who work in only one courthouse. In contrast, all OIDS satellite office staff attorneys worked in several district

courts.

- (3) Conflict/Overload Counsel: During Fiscal Year 2005, NCTD assigned 331 conflict cases to conflict counsel and 147 overload cases to overload 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 annual 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(D)(6) of the Indigent Defense Act.

In Fiscal Year 2005, the Non-Capital Trial Division's satellite offices served the following counties:

CLINTON OFFICE

- Custer
- Dewey
- Ellis

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

MANGUM OFFICE

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

OKMULGEE OFFICE

- Okfuskee
- Okmulgee (2 courthouses)

SAPULPA OFFICE

- Creek (3 courthouses)

During the first nine to ten months of Fiscal Year 2005, the satellite offices continued to handle some of each other's conflict cases, as well as a few conflicts cases arising in adjoining counties covered by fiscal year contracts.

OVERALL CASELOAD

In Fiscal Year 2005, the Non-Capital Trial Division received a total of 24,373 new contract cases, of which 159 resulted in conflicts. As a result, 24,214 new cases were handled under the county contracts. OIDS Non-Capital Trial Division satellite offices received 4,563 new cases, of which 172 were conflicts and 147 were overload cases. Thus, the satellite offices handled 4,244 new cases in Fiscal Year 2005. Total new cases for the division equaled 28,936. (*See Appendix B*)

The list of counties in order of descending caseload shows that Cleveland County had the highest number of cases (1,578), while Harper had the fewest (17). (*See Appendix C*)

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 represented clients in Oklahoma and Tulsa Counties when the public defender had 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, OIDS contracts with private counsel to represent the client under the provisions of the Indigent Defense Act, Sections 1355.7 & 1355.13.

The Capital Trial Divisions began Fiscal Year 2005 with 32 pending trial level cases. A total of 58 trial level cases were handled during this time with 30 completed.

Further, the Capital Trial Divisions began Fiscal Year 2005 with 14 pending death penalty appeals. These two Divisions received new appointments for appeals in four cases during the fiscal year, bringing the total appellate caseload for Fiscal Year 2005 to 18 cases.

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 45 counties and has primary responsibility for conflicts arising in the remaining counties. In May 2003 the Capital Trial Division – Norman ceased to receive new conflict cases from Oklahoma County due to a statutory change. The Division did, however, retain appointments already made at the time the statute went into effect. Two of those cases are still active in the Division.

Fiscal Year 2005 began with eight attorneys, one attorney vacancy, five investigators and three full-time support personnel. Another attorney vacancy arose in August. Both attorney vacancies were filled

on September 1, 2004, through transfer of personnel from other agency divisions, bringing the total number of attorneys to nine. During the fiscal year, one full-time support personnel position was reclassified as part-time. On May 1, 2005, a realignment of resources within the agency resulted in the transfer of one attorney and one investigator to the Capital Direct Appeals Division. This reallocation of personnel coincided with the elimination of direct appeals handled by the Capital Trial Division – Norman and shifting of those responsibilities to the Capital Direct Appeals and General Appeals Divisions.

The fiscal year ended with eight attorneys, four investigators, two full-time support personnel and one part-time support personnel.

TRIAL CASELOAD

The Capital Trial Division – Norman began Fiscal Year 2005 with 15 pending death penalty cases. The Division received appointments in 12 new cases during the fiscal year, bringing the total caseload for Fiscal Year 2005 to 27 cases. By the end of the fiscal year, eight cases were concluded and 19 were carried over into Fiscal Year 2006. The Capital Trial Division – Norman will continue to assess future staffing needs as a result of the elimination of conflict case appointments from Oklahoma County.

FISCAL YEAR 2005 RESULTS

- ◆ three cases were tried to juries, resulting in one life with parole sentence and two death sentences
- ◆ in four cases, a guilty plea was entered resulting in three life without parole sentences and one life with parole sentence (all first degree murder)
- ◆ in one case, the death penalty was dropped, resulting in a referral to the Non-Capital Trial Division
- ◆ one competency jury trial was held resulting in a finding of competency, with the case still pending. One mental retardation trial was held, resulting in finding the client was not mentally retarded. That case was appealed and a decision is currently pending from the Oklahoma Court of Criminal Appeals.

FINAL RESULTS OF TRIAL CASES CONCLUDED

Result	No. Cases
Death Penalty	2
Life Without Parole	3
Life with Parole	2
Death Penalty Dropped - Referred to Non-Cap Trial	1
Total	8

Two investigators were assigned to a Pawnee County case in which private contract counsel represented the client. An evidentiary hearing was handled by the Capital Trial Division – Norman for the Capital Post Conviction Division and was not counted as opened or closed. In addition, two attorneys were involved in a Capital Trial-Tulsa jury trial in Oklahoma County. One attorney also participated in a Capital Trial - Tulsa bench trial in Seminole County.

APPELLATE CASELOAD

The Capital Trial Division-Norman began Fiscal Year 2005 with five pending direct appeals: one death penalty case carried over from Fiscal Year 2004; one non-death penalty case carried over from Fiscal Year 2004; one death penalty case carried over from Fiscal Year 2003; one death penalty case carried over from Fiscal Year 2002; and one death penalty case carried over from Fiscal Year 2001. In Fiscal Year 2005 the Division retained appointments for two more appeals resulting from two jury trials resulting in death sentences, bringing the total number of appeals managed during most of the fiscal year to seven. The Division concluded and closed three direct appeals in Fiscal Year 2005. On May 1, 2005, the Division transferred two capital appeals to the Capital Direct Appeals Division in conjunction with a reallocation of resources within the Agency. The two remaining appeals, both of which are fully briefed and pending oral argument settings, were carried over into Fiscal Year 2006 and will continue to be managed by the Division.

CAPITAL TRIAL DIVISION TULSA

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. Historically, that region produced a significantly higher number of first degree murder charges than the remainder of the state, and the new Division was necessary to reduce the expense for conflict counsel and provide better geographical availability for OIDS clients and the courts. This division has the primary responsibility for defending capital cases in 32 counties in the Eastern-Northeastern area of the State. Additionally the division is assigned conflict capital cases in the remaining counties served by the Oklahoma Indigent Defense System. During Fiscal Year 2005, two Appellate attorneys transferred from Capital Trial Tulsa to Norman. One transferred to Capital Trial Norman and one transferred to Capital Direct Appeals. Two trial attorneys resigned during the year and three new trial attorneys were hired. At the conclusion of the fiscal year the Capital Trial Tulsa Division consisted of one chief capital counsel, one deputy chief counsel, both with a full caseload, four trial attorneys with both first and second-chair responsibilities, four investigators and two support staff.

TRIAL CASELOAD

Fiscal Year 2005 began with a carryover of 17 cases pending from the previous fiscal year. Capital Trial Tulsa Division opened 14 cases during the fiscal year, bringing the total caseload for the year to 31 cases. The Division concluded 22 cases and carried nine cases over into Fiscal Year 2006.

FISCAL YEAR 2005 RESULTS

- ◆ five cases went to trial: three jury trials and two trials to the Court, resulting in one acquittal, two life without parole sentences and two death sentences
- ◆ in five cases, counsel negotiated dismissal of the bill of particulars resulting in negotiated pleas of either life or life without parole sentences

- ◆ a plea was negotiated to a lesser charge in two cases
- ◆ five cases were closed in which no action was taken
- ◆ one conflict case was referred out of the Division
- ◆ two clients hired private counsel
- ◆ one case resulted in a “not guilty by reason of insanity” plea in which the client was placed in a structured mental health treatment environment with criminal proceedings no longer pending
- ◆ one case resulted in a finding of the client ineligible for the death penalty due to status as a juvenile at the time the crime occurred

FINAL RESULTS OF CASES CONCLUDED

Result	No. Cases
Death Sentences	2
Life Without Parole	3
Life With Parole	4
Pled to Lesser Charge	2
Closed No Action Taken*	5
Conflict of Interest	1
Acquitted at Trial	1
Retained Private Counsel	2
Incompetent/Insane	1
Ineligible for Bill of Particulars	1
<i>Total</i>	<i>22</i>

* No Action Taken - State did not file Bill of Particulars.

APPELLATE CASELOAD

Nine appeals were carried over from Fiscal Year 2004. Two new appeals were initiated and three appeals have been completed to date. Two appeals were overturned in the Court of Criminal Appeals and have now been reassigned to the active cases. Two appellate cases were reassigned to the Capital Direct Appeals Division. Four appellate cases are still pending. Effective April 1, 2005, Capital Direct Appeals assumed the responsibility of capital appeals from the Capital Trial Division - Tulsa.

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 Oklahoma Court of Criminal Appeals in cases where the defendant has been sentenced to a term of imprisonment up to life imprisonment without the

possibility of parole.

The Division is appointed in 75 counties and in Oklahoma 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, under certain circumstances, by a private attorney under contract 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 contracts with private attorneys on a case-by-case basis to represent Division clients on appeal.

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 contract with a private attorney on a case-by-case basis to represent the client on appeal.

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

nationally-recognized standards, which were caused in part by an agency-wide reduction-in-force during Fiscal Year 2003, the agency received a supplemental appropriation during the last part of Fiscal Year 2005. The Division received a substantial portion of that appropriation to alleviate the Division's caseload.

The General Appeals Division began FY-2005 with 285 open cases in various stages of appeal before the Court of Criminal Appeals, and received appointments in 324 additional cases during the fiscal year. The Division closed 343 cases, ending the fiscal year with 266 open cases to be carried into Fiscal Year 2006. During the course of the fiscal year, the Division handled 609 cases. A chart showing the distribution of cases handled, by county, is attached as Appendix D.

Attorneys in the General Appeals Division filed Briefs-in-Chief on behalf of 255 clients during Fiscal Year 2005. Of those, 11 involved clients convicted of homicide; including 7 clients convicted of first-degree murder. In addition, Division attorneys appeared for 13 oral arguments before the Court of Criminal Appeals in fast track cases, and filed 43 reply briefs and 10 petitions for rehearing.

The Division closed 343 cases during the year, most due to the Court of Criminal Appeals reaching a final decision in the case. Most of the cases closed, 225, were closed because a final decision was reached by the Court of Criminal Appeals. In 52 of those cases, relief was obtained on behalf of the client. Other cases were closed for various reasons. Seven cases, including six first-degree murder cases, were closed by the Division when they were transferred within the agency to the OIDS Capital Direct Appeals Division for briefing. Fifty-two cases were closed because they were contracted to outside counsel as conflict or overload cases. Thirty-five appeals were closed after the appeal was dismissed, either at the client's request or because the Court of Criminal Appeals lacked jurisdiction to hear them; nine cases were closed because the System was not properly appointed to handle them; and five cases were closed because outside counsel was retained by the client. Additionally, ten appeals were closed due to consolidation with other cases.

received from 55 of the State's 77 counties. Almost one-fourth of the incoming caseload, or 80 cases, arose from Oklahoma and Tulsa counties, and seven of the 16 first-degree murder cases received from across the state arose from those two counties. In 215 of the cases received in FY-05, counsel at trial level was court-appointed, and 109 cases were handled at trial by privately-retained counsel or by the client pro se.

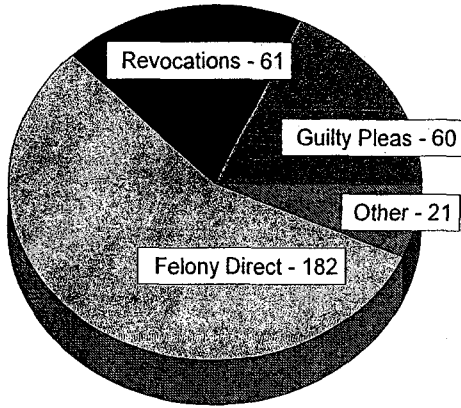
SUMMARY OF CASES CLOSED

<u>Reason for Closing</u>	<u># of Cases</u>	<u>%</u>
Decision of Court of Criminal Appeals	225	66
Contracted to Outside Counsel (Conflict & Overload)	52	15
Rejected or Dismissed for Lack of Jurisdiction (Dismissed at Client's request)	35	10
OIDS not properly appointed/appeal out of time	9	2
Outside Counsel Retained by Client	5	2
Transferred to another Division	7	2
Other (Consolidated)	10	3
TOTAL	343	100

INCOMING CASES

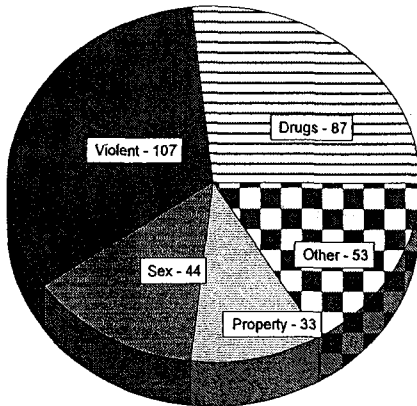
Three hundred and twenty four new cases were

Types of Appeals



The graph at left shows the types of appeals received by the General Appeals Division. Except for juvenile appeals (included in the "other" category), appeals of everything from burglary to First Degree Murder involve opening briefs of up to 50 pages in length. Other appeals involve juvenile and responses to State appeals of adverse rulings.

Types of Offenses Appealed



The majority of the convictions in the cases appealed by the General Appeals Division are violent crimes, including all degrees of murder and manslaughter, child abuse, assaults, robberies, kidnapping and first degree arson. The subcategory of sexual offenses includes such violent offenses as rape and molestation, as well as related crimes such as failure to register as a sex offender. Drug offenses are the second leading category of offenses appealed.

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, 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 Oklahoma Criminal Court of 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 Oklahoma Criminal Court of Appeals.

The Capital Direct Appeals Division is subject to appointment by the district courts in 75 counties and in Oklahoma County and Tulsa County when the public defender has a conflict of interest or where the defendant was represented by retained counsel at trial but is judicially determined to be indigent on appeal.

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

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

CAPITAL DIRECT APPEALS DIVISION

CASELOAD

The Capital Direct Appeals Division began Fiscal Year 2005 with eight pending capital cases and six cases in which the client was convicted of murder in the first degree but sentenced to life or life without parole. During the fiscal year, 11 new capital cases and seven new non-capital cases were opened. By the end of the year, five capital cases and six non-capital case were closed, leaving the Division with 21 active cases, 14 of these being capital, and seven non-capital cases.

STATEWIDE DISTRIBUTION

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

COUNTY

(1) Canadian	14%
(2) Comanche	14%
(3) Oklahoma	44%
(4) Osage	7%
(5) Rogers	7%
(6) Tillman	7%
(7) Tulsa	7%

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

COUNTY

(1) Cherokee	8%
(2) Cleveland	8%
(3) Comanche	15%
(4) Grady	8%
(5) Muskogee	8%
(6) Oklahoma	30%
(7) Pontotoc	8%
(8) Tulsa	15%

DISPOSITION OF CASES

Four non-capital cases were affirmed by the Oklahoma Court of Criminal Appeals and

subsequently closed during Fiscal Year 2005. One non-capital case was reversed and remanded for a new trial and one non-capital case was closed after being transferred to private counsel. Of the five capital cases closed during Fiscal Year 2005, one case was reversed and remanded for a new sentencing hearing; one client was sentenced to life without parole in the district court following a resentencing hearing; one client was sentenced to death in the district court following a resentencing hearing; one case was affirmed by the Oklahoma Criminal Court of Appeals; and one case was closed after being transferred to contract counsel because of a Division conflict.

DNA FORENSIC TESTING PROGRAM

The DNA Forensic Testing Program was created on July 1, 2000, by the DNA Forensic Testing Act, Title 22 O.S. §§ 1371, *et. seq.* The Program was placed with the Capital Direct Appeals Division and made available to indigent persons who were presently incarcerated on felony offenses and had a claim of factual innocence based on scientific evidence. The Program was staffed with two attorneys and an investigator.

TOTAL CASES

Since its inception, the Program distributed and assessed 829 total applications in response to initial inquiries and requests. Two hundred and three of these applicants were not eligible because they were convicted in jurisdictions outside the State of Oklahoma. Three hundred and seventy-seven Oklahoma inmates were rejected either because their case did not meet Program criteria or viable test samples could not be obtained. In rejections involving unavailable biological samples, samples were unavailable for testing either because samples were not collected at the time of the crime or the samples were subsequently destroyed or lost. The Program estimates it would have performed testing in approximately 50 of these cases had the evidence been available. An additional 213 applications were assessed and closed over the course of the multi-agency investigation of Oklahoma City Police Chemist Joyce Gilchrist.

Despite the difficulties with locating evidence, over the course of the Program, staff members were able to obtain DNA testing in 36 cases. Of these 36 cases, three men were exonerated of their crimes, one was granted a new

trial and a post conviction application for a new trial is anticipated to be filed in another defendant's case. In one capital case, the Oklahoma Court of Criminal Appeals granted the defendant a new trial. In one Oklahoma County case, the District Attorney is still considering whether to dismiss the murder charge altogether based on the results of the DNA testing. In another Oklahoma County case a post conviction application was denied by the district court and the Program appealed the decision to the Oklahoma Criminal Court of Appeals. In another capital case, despite favorable DNA test results, the Oklahoma Criminal Court of Appeals allowed the execution of the death row inmate. In eight other cases the DNA test results, although not implicating the defendants, were unable to exonerate them of their crimes. In 12 cases the testing confirmed the defendant's original conviction. The remaining seven cases are open pending results of DNA testing..

In Fiscal Year 2005, the Statewide Program received a total of 64 new applications. Forty-one of these applications came from Oklahoma inmates and an additional 23 applications came from ineligible out-of-state inmates. During Fiscal Year 2005, the Program conducted DNA testing on behalf of 15 Oklahoma inmates. In one case the Program obtained favorable results for the client, although the testing did not completely exonerate the client and he is currently seeking post-conviction relief through private counsel. The results of testing in five other cases proved inconclusive. The DNA results in two of these cases implicated the inmate. As mentioned above, seven other cases are currently awaiting the results of DNA testing.

STATEWIDE DISTRIBUTION OF APPLICATIONS

There were 41 Official In-State Applicants to the Program in Fiscal Year 2005. These Applicants came from the following counties:

Caddo- 1
Cherokee- 1
Comanche-1
Craig- 1
Creek-5
Grady-2
Kay-1
Kingfisher- 1
LeFlore- 1
Logan- 2

Murray- 1
Oklahoma-11
Osage- 1
Pontotoc- 3
Pottowatomie- 2
Seminole- 1
Sequoyah- 2
Tulsa-4

CAPITAL POST CONVICTION DIVISION

The Capital Post Conviction Division began Fiscal Year 2005 with 33 cases. Through the year, the Division was appointed to 12 new cases. Thirteen cases were closed during the year, leaving the Division with 32 cases at the beginning of Fiscal Year 2006. Of the cases which were closed:

- ◆ three original applications were dismissed because relief had been granted on direct appeal
- ◆ one original application was denied
- ◆ three cases were contracted to private counsel due to a conflict of interest
- ◆ four original cases were contracted to private attorneys as overload cases; however, division investigators continued to provide assistance to counsel
- ◆ relief was granted in one mental retardation case
- ◆ one mental retardation case was dismissed, as relief was granted by another court

The Capital Post Conviction Division has been actively litigating mental retardation cases as the direct result of the United States Supreme Court decision in *Atkins v. Virginia*, 536 U.S. 304 (2002), prohibiting the execution of the mentally retarded. These cases have been litigated in the context of successor post conviction applications. In fiscal year 2005, three of the mental retardation cases were resolved by agreement with the State with the clients' sentences modified to life imprisonment without parole. Two of those cases were ultimately contracted to private counsel and one was handled by the Division. The Division conducted two mental retardation trials as well during fiscal year 2005. There are six mental retardation cases that had gone to jury trials that are now on review at the Court of Criminal Appeals, after supplemental briefing by the parties.

In June 2005, the Division experienced a victory when the Oklahoma Court of Criminal Appeals granted a new

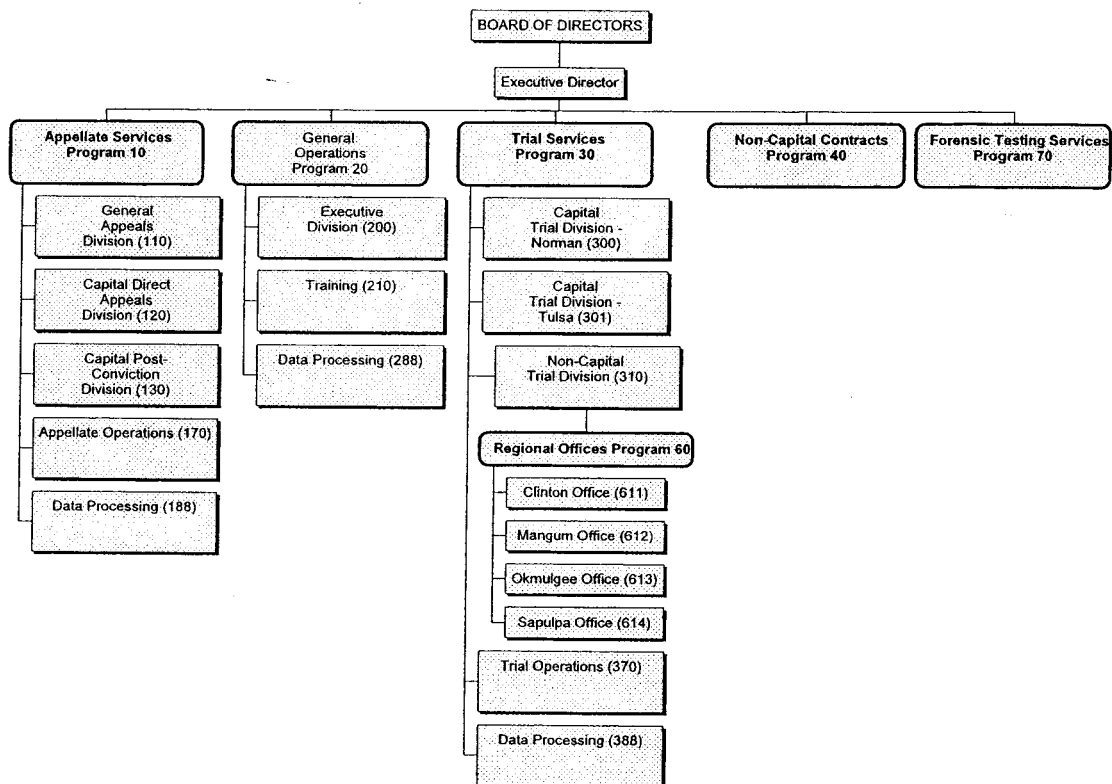
trial to Curtis Edward McCarty, after review of a successor post conviction application. The case involved the former Oklahoma City Police Department Forensic Chemist, Joyce Gilchrist. The court's decision was based on evidence presented at an evidentiary hearing spanning several days in October 2004.

In May 2005, the Division was appointed to represent Garry Allen, a death row inmate, on the issue of whether Mr. Allen was competent to be executed. The Warden of the Oklahoma State Penitentiary commenced state court proceedings pursuant to Title 22 O.S. § 1005, by notifying the District Attorney of Pittsburg County there were reasonable concerns that Mr. Allen may not be competent to be executed. The System was appointed to provide legal representation, with a jury trial to determine the question scheduled in October 2005.

The main mission of the Division continues to be representing clients in their original post conviction cases. This representation involves the investigation, preparation and filing of an original application for post conviction relief. The Division strives to provide a thorough review of each case to ensure the clients have the best chance of obtaining relief when the cases move from state court into the federal system.

Oklahoma Indigent Defense System

Organization Chart



Non-Capital Trial Division
ACTUAL FY-2005 WORKLOAD
July 1, 2004 through June 30, 2005

SUMMARY OF ALL CATEGORIES OF APPOINTMENTS

TYPE OF APPOINTMENT		FELONY	JUVENILE	MISD	TRAFFIC	TOTAL
FY-2005 Contract LESS Conflicts		14,848	2,473	6,318	575	24,214
Plus Contract Carry-Over from Prior Fiscal Years		4,319	719	1,566	137	6,741
Total Contract Workload		19,167	3,192	7,884	712	30,955
2005 Satellite Office LESS Conflicts and Overload Cases		2,362	407	1,260	215	4,244
Plus Satellite Office Carry-Over from Prior Fiscal Years		1,618	575	696	96	2,985
Total Satellite Office Workload		3,980	982	1,956	311	7,229
FY-2005 Conflicts	Contracts	110	5	42	2	159
	Satellite Offices	139	19	14	0	172
Conflicts Carryover from Prior Fiscal Years	Contract Counties	36	5	7	2	50
	Satellite Office Counties	32	14	6	0	52
FY-2005 Overload Cases		110	3	30	4	147
Overload Cases Carry-Over from Prior Fiscal Years		0	0	0	0	0
Total Conflicts and Overload Cases Workload		427	46	99	8	580
TOTAL FY-2005 NCT Workload		23,574	4,220	9,939	1,031	38,764

OKLAHOMA INDIGENT DEFENSE SYSTEM
Non-Capital Trial Division
FY-2005 CONTRACT APPOINTMENTS
(including conflicts)

County	Number of Appointments	County	Number of Appointments
Cleveland	1,578	Choctaw	311
Pottawatomie	1,391	Adair	310
Muskogee	1,054	Logan	309
Kay	996	Osage	306
Payne	927	McClain	279
McCurtain	897	Texas	275
Garfield	891	Murray	258
Bryan	863	Nowata	246
Canadian	824	Marshall	244
Pittsburg	807	Coal	227
Carter	682	Atoka	223
Washington	634	Pushmataha	190
LeFlore	620	Noble	170
Garvin	575	Johnston	160
Comanche	574	Hughes	153
Cherokee	535	Love	139
Delaware	532	Woods	136
Rogers	476	Pawnee	118
Ottawa	464	Haskell	115
Pontotoc	441	Blaine	100
Stephens	438	Major	94
Wagoner	423	Jefferson	92
Lincoln	384	Grant	90
Sequoyah	381	Cotton	89
Mayes	371	Craig	78
Grady	361	Kingfisher	66
McIntosh	359	Alfalfa	63
Caddo	345	Beaver	34
Seminole	317	Cimarron	26
Latimer	315	Harper	17

GENERAL APPEALS
 CASES RECEIVED BY COUNTY
 FY-05

Adair	1	Harper	0	Pawnee	1
Alfalfa	0	Haskell	1	Payne	2
Atoka	1	Hughes	1	Pittsburg	10
Beaver	0	Jackson	8	Pontotoc	0
Beckham	1	Jefferson	2	Pottawatomie	22
Blaine	2	Johnston	1	Pushmataha	8
Bryan	11	Kay	2	Roger Mills	0
Caddo	8	Kingfisher	4	Rogers	3
Canadian	3	Kiowa	3	Seminole	9
Carter	2	Latimer	0	Sequoyah	2
Cherokee	4	Leflore	4	Stephens	7
Choctaw	0	Lincoln	2	Texas	3
Cimarron	0	Logan	6	Tillman	0
Cleveland	9	Love	6	Tulsa	35
Coal	0	McClain	2	Wagoner	5
Comanche	13	McCurtain	1	Washington	11
Cotton	0	McIntosh	1	Washita	1
Craig	1	Major	0	Woods	0
Creek	7	Marshall	0	Woodward	0
Custer	6	Mayes	2	TOTAL	324
Delaware	2	Murray	0		
Dewey	0	Muskogee	5		
Ellis	0	Noble	2		
Garfield	9	Nowata	0		
Garvin	1	Okfuskee	1		
Grady	10	Oklahoma	45		
Grant	0	Okmulgee	5		
Greer	0	Osage	1		
Harmon	0	Ottawa	9		