



Kansas State Board of Indigents' Defense Services
FY 2020 ANNUAL REPORT



Kansas State Board of Indigents' Defense Services
FY 2020 Annual Report

Kansas State Board of Indigents' Defense Services
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Pictured on the front cover: Members of the Third Judicial District Public Defender Office (Topeka) and the Capital Appeals and Conflicts Public Defender. Photo taken by Capital Appellate Defender Meryl Carver-Allmond.

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FY 2020 Facts At A Glance

- 85% Eighty-five percent of adults charged with felonies in Kansas are indigent and qualify for and receive appointed attorneys. BIDS provides all of those attorneys through its public defender offices or its appointed private counsel program.
- 26,237 In FY 2020, BIDS attorneys completed 26,237 felony criminal cases. Our public defenders completed 11,456 of those, or 44%. Our private appointed counsel program handled 14,781 of those, or 56%.
- 150 The 1973 National Advisory Commission on Criminal Justice Standards and Goals for the Defense set defense attorney workloads at **no more than 150 felonies per year**, no more than 400 misdemeanors per year, and no more than 25 appeals per year, per attorney.¹
- 8 In FY 2020, out of BIDS' 11 non-capital trial public defender offices, 8 offices substantially exceeded 150 felonies per attorney, per year.
- 4 In FY 2020, we had four public defender offices that refused new cases for over 35% of the calendar year due to turnover issues and high caseloads.²
- 10 Hours In FY 2020, our trial level public defenders only had, on average, 10 hours per case, per year to spend defending their clients.³

¹ See N.A.C. Standard 13.12

² In FY 2020, the Third Judicial District Public Defender in Topeka refused new cases for 172 days (47% of the year); the Northeast Kansas Conflicts Public Defender in Topeka refused new cases for 188 days (51.5% of the year); the Sedgwick County Conflicts Public Defender in Wichita refused new cases for 133 days (36.4% of the year); the Salina Regional Public Defender in Salina refused new cases for 201 days (55% of the year).

³ Average caseload per trial attorney in FY 2020 was 204 cases. At 40 hours per week, 52 weeks per year, that leaves each attorney 10 hours per case, per year to work an individual case.

Letter from the Director

Heather Cessna, Executive Director, KS State Bd. Of Indigents' Defense Services

When I started in my new position as the Executive Director of BIDS at the beginning of the second quarter of FY 2020, I knew that one of the most important things I could do was to assess where we were as an agency through an in-person listening tour of our public defender offices and our assigned counsel. In October, November, and December 2019, I did just that. While there were a lot of positive things I heard during that tour—a true dedication to this work, appreciation for our co-workers, and a desire to provide high quality, zealous counsel to our clients—there were some key themes that quickly emerged.

Our public defenders and assigned counsel had caseloads that were far too high and they were working without the resources they needed such as training and infrastructure support to do their jobs to the best of their abilities. They were not getting compensated appropriately for their time or their skills compared to prosecutors and other similar government employees. And this was causing a significant number of our public defenders and assigned counsel to leave our defender offices and appointments panel lists for other opportunities where the deck was not always stacked so highly against them. Those who stayed because of their dedication to our clients and their belief in the importance of the Sixth Amendment right to counsel, were caught in the never ending cycle of more and more cases and fewer attorneys and staff to handle them, which, in turn, caused them to suffer from burnout and moral injury.

It became clear that drastic changes needed to be made.

We immediately began working with the Board on a plan to solve these fundamental issues with caseload overload, stagnant state raises, a lack of pay parity with prosecutors, rethinking our training program, and addressing our public defender and assigned counsel well-being issues—a Herculean task to be sure. As those discussions began, we also began hearing about a distant and little understood virus halfway across the world.

Little did we know then that by March 2020 our whole world would suddenly upend itself.

As a result of the COVID-19 pandemic, our Kansas Judicial System had all but stopped, save only for the most emergent matters. Our public defense employees were working remotely under the orders of the Governor, learning to navigate remote court hearings and remote client visits, and rethinking what face-to-face collaboration with our colleagues looked like. At the same time, they were navigating the massively changed landscape of the rest of the world—dealing with childcare issues, sick and dying relatives, mask mandates, limits on public gatherings, and a shutdown of our public schools.

The end of FY 2020 was difficult on every level. It was the beginning of a life-changing and life-challenging event for all of us. To our employees' and assigned counsel's credit, while there were many bumps along the way, they continued to do their best to provide our clients with the quality and zealous representation they deserve. But we as an agency knew that we need to do more to support them.

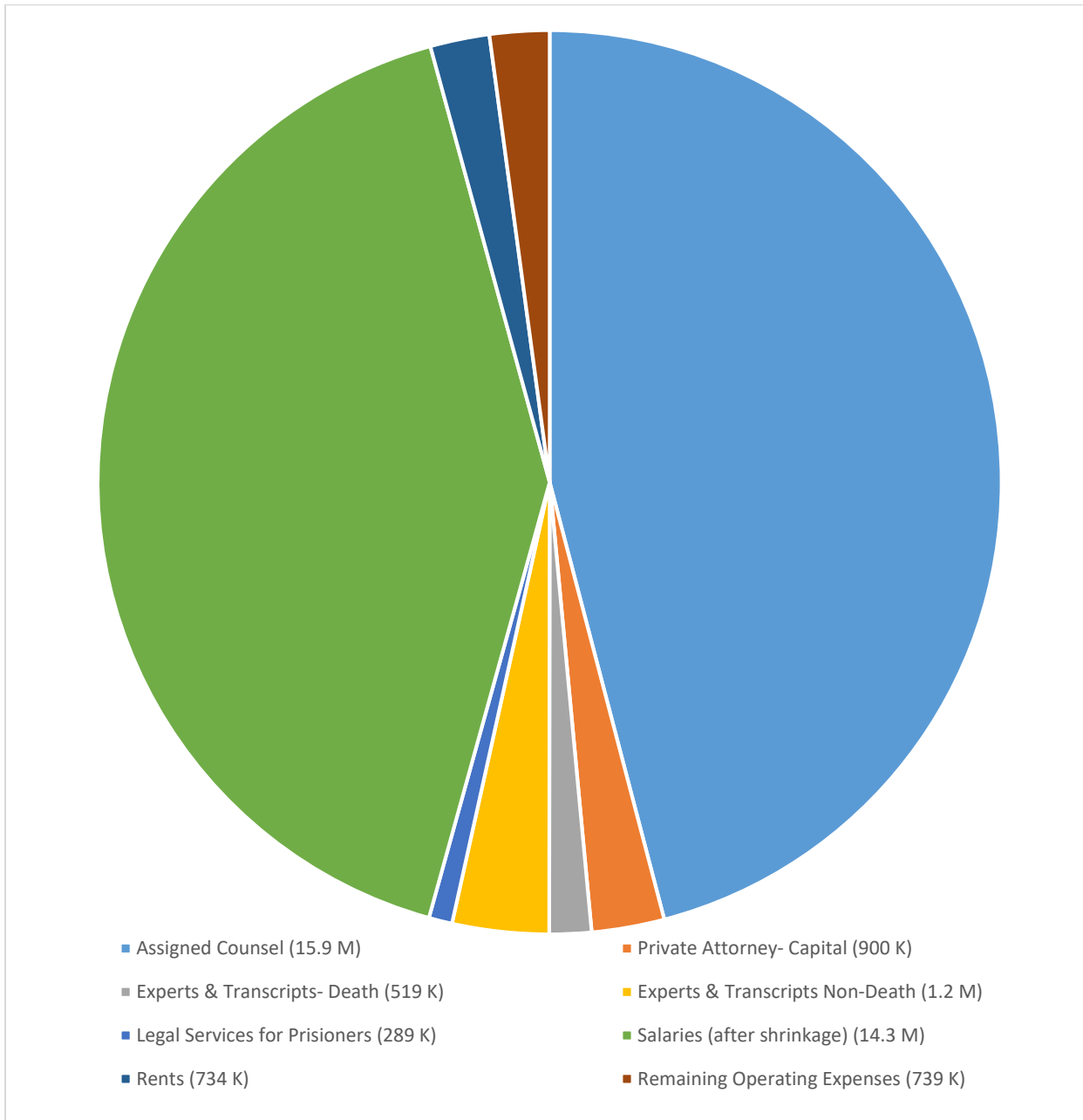
We have to address our concerning caseloads. We need to address the compensation issues in our public defender offices and in our assigned counsel program. We need to provide better training and better infrastructure support to our attorneys and staff. And we need to address our employees' well-being in a meaningful and comprehensive way.

As we move into the FY 2021 year, we have developed a thoughtful, comprehensive, aggressive and long overdue plan to begin making some of the fundamental improvements our agency needs to continue to serve our mission of providing quality, effective, and efficient defense to our most impoverished citizens.

In the meantime, while we continue to navigate the changed landscape that is the practice of law during a worldwide pandemic, we are thankful every day for the commitment of our public defense employees and our assigned counsel who sacrifice so much for our agency and our clients.

FY 2020 Agency Appropriation:

\$33,933,455.00



BIDS Background & History

The Kansas State Board of Indigents' Defense Services was created by the 1982 Legislature for the purpose of providing indigent felony defense services to Kansans accused of felony crimes as required by the Sixth Amendment to the United States Constitution. *See Gideon v. Wainwright*, 372 U.S. 335 (1963).

The present Board succeeded the Board of Supervisors of Panels to Aid Indigent Defendants (1969 Legislature, K.S.A. 22-4501, et. seq.) which was abolished on the effective date of the 1982 legislation. With the enactment of the act, the Board was given greater authority than its predecessor to ensure the effective and cost-efficient delivery of felony defense services for the citizens of Kansas.

The Board is an executive branch state agency. The nine Board Members are appointed by the Governor and subject to confirmation by the Kansas Senate. Members are appointed for three year terms and consist of not more than five members who are lawyers registered with the Kansas Supreme Court (with at least one lawyer member from each county in the state with a population in excess of 100,000) and four public members. At least one Board member must be from each congressional district, except that two members shall be from the first congressional district. See K.S.A. 22-4519.

The Board has the following duties:

- 1) To provide, supervise, and coordinate in the most efficient and economical manner possible the constitutionally and statutorily required counsel and related services for each indigent person accused of a felony and for such other indigent persons as prescribed by statute.
- 2) Establish in each county or combination of counties designated by the board a system of appointed counsel, contractual arrangements for providing contract counsel, or public defender offices, or any combination thereof on a full or part-time basis for the delivery of legal services for indigent persons accused of felonies.
- 3) Approve an annual operating budget for the board and submit that budget as provided in K.S.A. 75-3717.
- 4) Adopt rules and regulations in accordance with K.S.A. 75-415 et. seq. and amendments thereto which are necessary for the operation of the board and the performance of its duties and for the guidance of appointed counsel, contract counsel, and public defenders, including but not limited to:
 - a) Standards for entitlement to legal representation at public expense;
 - b) Standards and guidelines for compensation of appointed counsel and investigative, expert, and other services within the limits of appropriations;
 - c) Criteria for employing contract counsel;
 - d) Qualification, standards and guidelines for public defenders, appointed counsel and contract counsel;
- 5) Prepare and submit to the Governor and Legislature an annual report on the operations of the board.

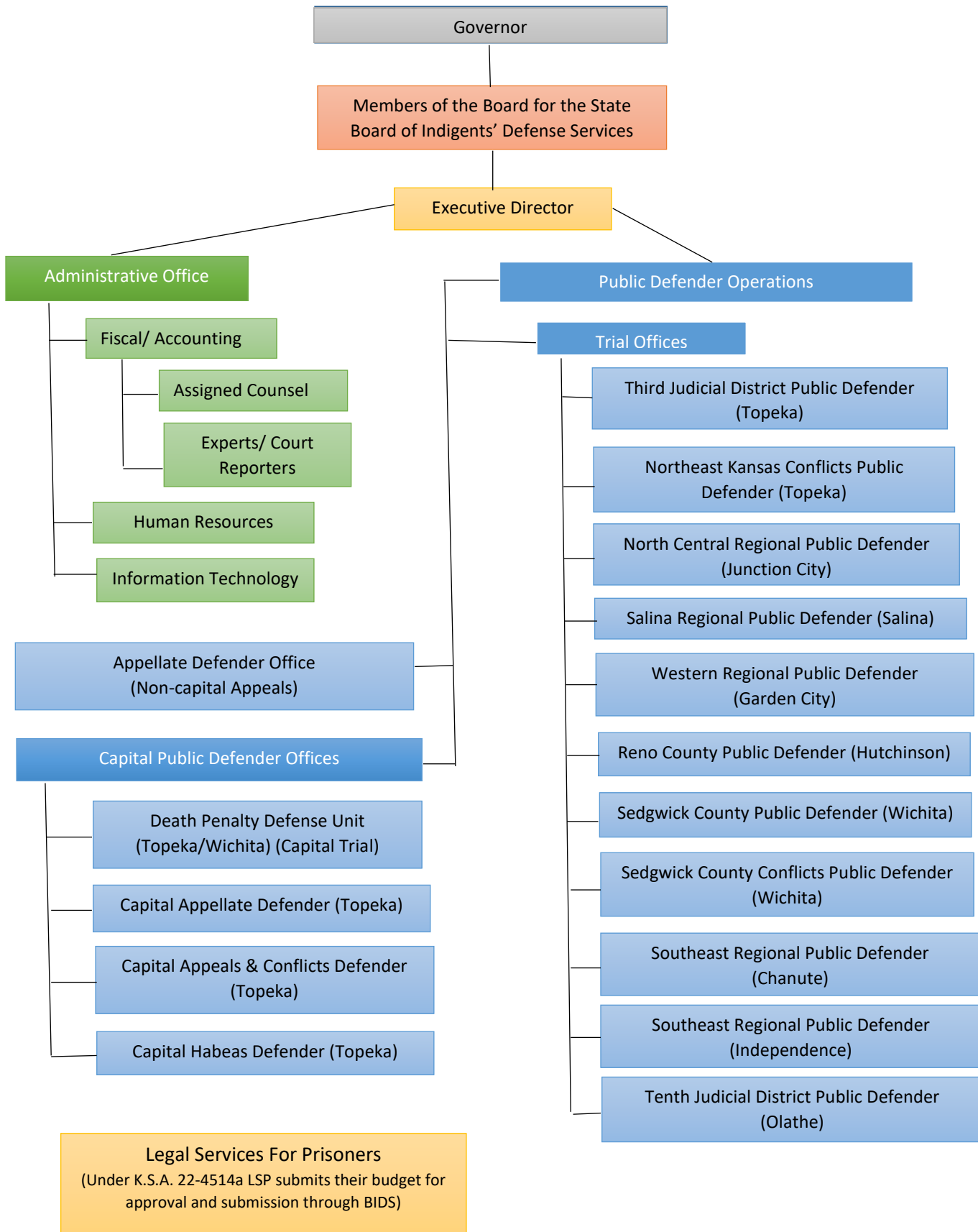
BIDS FY 2020 Board Members

Member	Position	Term Expires
Ronald Wurtz, Chair	Shawnee County Attorney Member	1/15/2020
Braden Perry, Secretary	Johnson County Attorney Member	1/15/2020
Jeffrey Leiker	Wyandotte County Attorney Member	1/15/2021
Erica Andrade	3 rd Congressional District Public Member	1/15/2022
Patricia Hudgins	1 st Congressional District Public Member	1/15/2022
Dr. Michael Birzer	4 th Congressional District Public Member	1/15/2022
Laurel A. Michel	1 st Congressional District Attorney Member	1/15/2021
Richard Ney	Sedgwick County Attorney Member	1/15/2022
VACANT	2 nd Congressional District Public Member	

BIDS FY 2020 Administrative Office Executive Officers

Name	Title	Appointment Date
Heather Cessna	Executive Director	October 2019
Kimberly Mason	Assistant Director/ Chief Fiscal Officer/ Chief Information Security Officer	August 2014

BIDS Organizational Structure



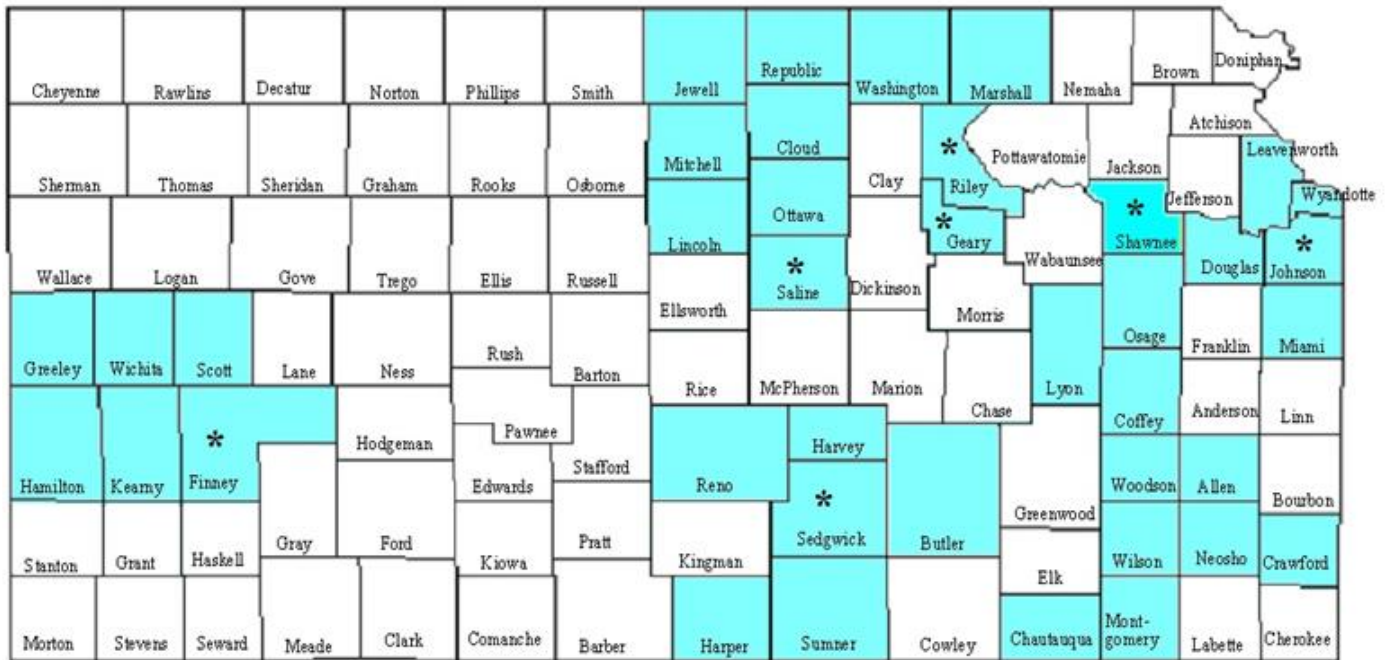
Kansas Public Defender Offices

Office (Location)	Localities Served	Year Established
Appellate Defender Office (Topeka)	Statewide	1985
Capital Appellate Defender (Topeka)	Statewide	2002
Capital Appeals and Conflicts Defender (Topeka)	Statewide	2002
Capital Habeas Office (Topeka)	Statewide	2015
Death Penalty Defense Unit (Topeka/Wichita)	Statewide	1995
North Central Kansas Public Defender (Junction City)	Geary County, Riley County, Clay County, Morris County, Dickenson County	1972
Northeast Kansas Conflicts Public Defender (Topeka)	Shawnee County	1997
Reno County Public Defender (Hutchinson)	Reno County	1996
Salina Regional Public Defender (Salina)	Saline County, Ottawa County	1973
Sedgwick County Public Defender (Wichita)	Sedgwick County	1985
Sedgwick County Conflicts Public Defender (Wichita)	Sedgwick County	2009
Southeast Kansas Public Defender (Chanute)	Allen County, Neosho County, Wilson County, Woodson County	1997

Southeast Kansas Public Defender Satellite (Independence)	Chautauqua County, Montgomery County	2004
Third Judicial District Public Defender (Topeka)	Shawnee County	1972
Tenth Judicial District Public Defender (Olathe)	Johnson County	1989
Western Regional Public Defender (Garden City)	Finney County	1994

BIDS FY 2020 Map of Public Defender and/or Contract Counsel Availability

Shaded Counties Have Public Defender Availability and/or Contract Counsel



Shaded counties reflect coverage

*Counties with both Public Defender and Contract Counsel Availability

BIDS Trainings Offered/Partnered by BIDS in FY 2020

Training	Date	Location	Attendees
National Institute for Trial Advocacy Kansas Supervisory Skills	10/23/19	Hays, KS	15
BIDS Fall Criminal Law CLE (6 hrs CLE)	10/21/19-10/22/19	Topeka, KS Wichita, KS	150
BIDS Spring Criminal Law CLE (6 hrs CLE)	6/12/20	Online Pre-recorded webinar series	192

Administrative Operations

The BIDS Administrative Office is staffed by nine (9.0) FTEs, including:

Executive Director (State Director),
Assistant Director (CFO),
Two (2) Information Technology Support Consultant II
One (1) part-time Systems Analyst,
Human Resources Professional II,
One (1) full time Accountant I, one (1) part-time Accountant I
Accountant III,
One (1) part-time Accounting Specialist
One (1) part-time Administrative Specialist

Executive Director (State Director)

Under K.S.A. 22-4525, the State Director is the Chief Executive Officer of the Kansas State Board of Indigents' Defense Services. The Director supervises the operation, policies, and procedures of the office of the board, prepares and submits annual reports on the operation of the board, and is responsible for the overall supervision, agency strategic planning, and providing current and accurate information regarding the agency to the Board Members, the Governor's Office, Division of Budget, Legislative Research, Legislative Committees, the agency's employees, and the public.

The Director provides administrative supervision and support to all divisions of the public defender offices including trial public defenders, appellate defenders, and all capital defender offices. This includes reviewing and authorizing expert services, hiring and director supervision of all individual Chief Public Defenders, monitoring caseload information and statistics. Additionally, the Director provides administrative support to contract counsel and assigned counsel by initiating and overseeing contracts with private attorneys, reviewing and authorizing the payment of expert services, updating Board policies and regulations, and monitoring caseload information and statistics.

The Director supervises the Assistant Director, Human Resources Professional, the Chief Defenders of each of the trial offices, the Chief Appellate Defender, the Chief of the Death Penalty Defense Unit, and the Chief of the Capital Habeas Office, along with the capital appeals attorneys.

The Executive Director is also the public face of the Board, providing testimony to the Legislature regarding the agency budget and operations, acts as the public information officer, oversees media and public inquiries regarding agency operations, and acts as a liaison to other agencies, organizations, and committees related to criminal public defense.

Additionally the Executive Director is primarily responsible for organizing agency trainings for public defender employees and assigned and contract private counsel.

The Executive Director is supervised by the Board of Indigents' Defense Services Board Members.

Accounting and Auditing Division

The Accounting and Auditing Division is responsible for processing, monitoring, and auditing all assigned counsel, expert, court reporter, and contract attorney vouchers and determining payments in accordance with Board policy, rules, and regulations. This Division is supervised by the Assistant Director who is also the agency's Chief Fiscal Officer.

Regulations, forms, orders, and instructions for expert and attorney services are posted on the agency website at www.sbids.org under the FORMS tab.

This division is also responsible for the monitoring and processing of defendant recoupment submitted by the District Courts. These funds are submitted to the State Treasurer for deposit into the State's Revenue Accounts. The Assistant Director also acts as program manager for the field offices by coordinating large purchases, office moves, travel requests, negotiating leases, and other projects that would affect the goals of the Public Defender program.

Human Resources Division

The Human Resources Division is responsible for all major personnel functions and activities related to employee relations, benefits, FLSA, ADA, FMLA, Share Leave, Affirmative Action/Equal Employment Opportunity, recruitment, onboarding of new employees, exit interviews, training, timekeeping, maintaining position organizational charts, and providing support to the Board. The Human Resources Division also coordinates the appointment of personnel with the Governor's Secretary of Appointments.

The Human Resources Division is currently supervised by the Executive Director.

Information Technology Systems Division

The Information Technology Systems Division provides planning, design, procurement, implementation, training, and on-site technical support of the agency's information resources to all of our public defender offices across the state of Kansas. This includes maintaining computer equipment, LAN/WAN connections, VPN access, and other applications and telecommunications.

This division also oversees data collection from both the public defender program and assigned counsel program and works closely with the Director and Assistant Director to compile the statistical information regarding agency operations and caseloads needed for the budget submission, the annual report, and the Director's monitoring of public defender and assigned counsel caseloads.

This division is supervised by the Assistant Director who also currently acts as the agency's Chief Information Security Officer.

Public Defender Operations

Non-Capital Trial Level Public Defender Offices

North Central Regional Public Defender Office

Established: 1972
 Location: 715 N. Washington Street, Junction City, KS 66441
 Phone: 785-238-2154
 Counties Covered: Geary, Riley, Clay, Morris, Dickenson
 Chief Public Defender: Cole Hawver

The North Central Regional Public Defender in Junction City started as a regional office in combination with the Salina Public Defender but became an independent office in 1997.

In FY 2020, the North Central Regional Public Defender did not refuse cases for any portion of the year.

This office is staffed by 11 attorneys and six support staff, including 2 investigators, 2 legal assistants and 2 clerical positions. In FY 2020, this office completed work on 1,168 cases, including 11 off-grid cases and 13 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		1,244
2016		1,360
2017		1,468
2018		1,360
2019		1,253
2020*	1,045	1,168

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the North Central Regional Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
11	1,168	420	1588	144.36

Northeast Kansas Conflicts Public Defender Office

Established: 1997
 Location: 700 SW Jackson Street, Suite 1001, Topeka, KS 66603
 Phone: 785-296-4402
 Counties Covered: Shawnee
 Chief Public Defender: Seth Brackman

This office was established in 1997 primarily in response to the large number of conflict cases generated in Shawnee County and the relatively high costs associated with those cases. Originally, because of the number of highly experienced defenders in this office, the office also provided coverage to Lyon County for high severity level or off grid cases on an ad hoc basis. However, turnover in the office and the replacement of those experienced defenders with less experienced attorneys resulted in the cessation of that Lyon County coverage in 2016.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 188 days, or approximately 51.5% of the fiscal year.

This office is currently staffed by 5 attorneys and 3 support staff that includes one investigator, one legal assistant, and one clerical position. In FY 2020, this office completed work on 614 cases, including 1 off-grid cases and 3 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		727
2016		634
2017		591
2018		593
2019		600
2020*	546	614

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Northeast Kansas Conflicts Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
5	614	236	850	170

Reno County Public Defender Office

Established: 1996
 Location: 129 W. 2nd Ave, Suite D, Hutchinson, KS 67501
 Phone: 620-664-5055
 Counties Covered: Reno
 Chief Public Defender: Sarah Sweet McKinnon

Reno County was established as a satellite office in 1997 and became a separate regional office in 2001.

In FY 2020, the Reno County Public Defender did not refuse cases for any portion of the year.

This office is currently staffed by five attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2020, this office completed work on 681 cases, including 2 off-grid cases and 4 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		946
2016		969
2017		929
2018		1,080
2019		874
2020*	629	681

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Reno County Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
5	681	279	960	192

Salina Regional Public Defender Office

Established: 1973
 Location: 234 N. 7th Street, Suite A, Salina KS 67401
 Phone: 785-827-9961
 Counties Covered: Saline, Ottawa, Dickenson (Conflicts only)
 Chief Public Defender: Mark Dinkel

The Salina Regional Public Defender began defending cases in 1972. In 1988 the office was combined with a Junction City Public Defender Office to form the North Central Regional Public Defender. In 1997, the Board of Indigents' Defense Services separated the Salina and Junction City offices in order to streamline services in the separate judicial districts that the offices covered.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 201 days, or approximately 55 % of the fiscal year.

This office has seven attorney positions and 4 support staff, including 1 investigator, 1 legal assistant, and two clerical staff. In recent years, the office has suffered significant turnover and difficulty recruiting new staff. As a result, only four of the attorney positions have been consistently staffed for the past year. In FY 2020, this office completed work on 757 cases, including 6 off-grid cases and 3 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		1,258
2016		1,242
2017		1,395
2018		1,270
2019		1,013
2020*	599	757

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Salina Regional Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
4	757	292	1049	262.25

Sedgwick County Public Defender Office

Established: 1985
 Location: 604 N. Main Street, Suite D, Wichita, KS 67203
 Phone: 316-264-8700
 Counties Covered: Sedgwick
 Chief Public Defender: Mark Orr

Established in 1985, the Sedgwick County Public Defender Office in Wichita is the largest public defender office in Kansas.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 55 days, or approximately 15 % of the fiscal year.

The office is staffed by 23 attorneys and 9 support staff positions, including one investigator, one social worker, two legal assistants, and give clerical staff. However, due to significant turnover issues, only 19 of this office’s 23 attorney positions have been consistently filled during FY 2020. In FY 2020, this office completed work on 3,630 cases, including 40 off-grid cases and 36 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		4,479
2016		4,995
2017		4,775
2018		4,897
2019		4,458
2020*	3,160	3,630

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Sedgwick County Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
19	3,630	1,655	5,285	278.16

Sedgwick County Conflicts Public Defender Office

Established: 2009
 Location: 266 N. Main Street, Suite 210, Wichita, KS 67202
 Phone: 316-267-1847
 Counties Covered: Sedgwick (Conflicts)
 Chief Public Defender: Bradley Sylvester

In 2009, the Sedgwick County Conflict Office was opened to handle trial cases where the main Sedgwick County Public Defender Office has a conflict. Traditionally, this office takes more cases to trial than any other office.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 133 days, or approximately 36.4 % of the fiscal year.

This office is staffed by 5 attorneys and 2 support staff, including 1 legal assistant, and 1 senior administrative assistant. In FY 2020, this office completed work on 614 cases, including at least one off-grid felony case.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		484
2016		511
2017		474
2018		516
2019		508
2020*	422	404

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Sedgwick County Conflicts Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
5	404	311	715	143

Southeast Kansas Regional Public Defender Office

Established: Chanute 1997, Independence Satellite 2004
 Locations: Chanute Office: 10 S. Highland Ave, Chanute, KS 66720
 Satellite Office: 404 N. 14th Street, Independence, KS 67301
 Phones: Chanute Office: 620-431-3796
 Independence Satellite Office: 620-331-4329
 Counties Covered: Allen, Neosho, Wilson, Woodson, Chautauqua, Montgomery
 Chief Public Defender: Jay Witt

The Southeast Kansas Regional Public Defender Office, located in Chanute, began accepting cases in 1997 in response to a lack of local attorneys willing to represent indigent defendants. The Independence Satellite branch was opened in 2004, also in response to a lack of local attorneys willing to represent indigent defendants in both Chautauqua and Montgomery Counties.

The Chanute Office is staffed by 3 attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2020, the Chanute office completed work on 387 cases, including 3 off-grid case and 5 severity level one felonies.

Due to high caseloads, in FY 2020, the Chanute office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 61 days, or approximately 16.7 % of the fiscal year.

Historical Office Caseload Statistics: Chanute Office

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		556
2016		615
2017		557
2018		540
2019		552
2020*	408	387

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Chanute Division of the SE KS Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
3	387	332	719	239.67

The Independence Office is staffed by 2 attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2020, the Independence office completed work on 298 cases, including 9 off-grid case and 5 severity level one felonies.

Due to high caseloads, in FY 2020, the Independence office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 61 days, or approximately 16.7 % of the fiscal year.

Historical Office Caseload Statistics: Independence Satellite Office

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		436
2016		463
2017		484
2018		465
2019		343
2020*	217	298

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Independence Division of the SE KS Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
2	298	135	433	216.5

Third Judicial District Public Defender Office

Established: 1972
 Location: 701 SW Jackson Street, 3rd Floor, Topeka, KS 66603
 Phone: 785-296-1833
 Counties Covered: Shawnee
 Chief Public Defender: Stacey Donovan, Cindy Sewell⁴

The Third Judicial District Public Defender is the main public defender office in Topeka, Shawnee County. This office was established in 1972 as one of three pilot public defender programs in Kansas.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 172 days, or approximately 47 % of the fiscal year.

The office is currently staffed by 9 attorneys and 5 support staff positions, including one legal assistant, one investigator, one administrative specialist, one senior administrative assistant, and one administrative assistant. In FY 2020, this office completed work on 963 cases, including 6 off-grid case and 6 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		1,208
2016		1,205
2017		1,277
2018		1,247
2019		1,177
2020*	840	963

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Third Judicial District Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
9	963	390	1,353	150.33

⁴ Cindy Sewell was appointed Chief Public Defender in March 2020 after the previous Chief Public Defender, Stacey Donovan, was appointed to a District Judge position in Douglas County, Kansas, by Governor Laura Kelly.

Tenth Judicial District Public Defender Office

Established: 1989
 Location: 115 E. Park Street, Suite A, Olathe, KS 66061
 Phone: 913-829-8755
 Counties Covered: Johnson
 Chief Public Defender: Michael McCulloch

The Tenth Judicial District Public Defender Office in Olathe began taking cases in 1989 and serves as the main public defender in Johnson County.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 19 days, or approximately 5 % of the fiscal year.

This office is staffed by 16 attorneys and 9 support staff including two investigators, four legal assistants, and three clerical staff. In FY 2020, this office completed work on 2,324 cases, including 7 off-grid case and 17 severity level one felonies.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		2,061
2016		2,281
2017		2,540
2018		2,667
2019		2,754
2020*		2,324

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Tenth Judicial District Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
16	2,324	952	3,276	204.75

Western Regional Public Defender Office

Established: 1994
 Location: 113 Grant Ave, Garden City, KS 67846
 Phone: 620-276-8137
 Counties Covered: Finney
 Chief Public Defender: Mark Hartman

The Western Regional Public Defender Office was established in Garden City in 1994 to serve the 25th Judicial District which includes Finney, Kearny, Hamilton, Greeley, Wichita, and Scott counties. In recent years, due to turnover and caseload issues, this office has cut back representation and focuses mainly on representing cases in Finney County with contract counsel instead covering the rest of the 25th Judicial District.

In 1996, a Satellite office in Liberal opened in response to requests from the 26th Judicial District because of a lack of local attorneys on that Judicial District's appointment lists due to dissatisfaction over the rate of pay. However, due to problems keeping that office sufficiently staffed, that office was closed in 2009.

Due to high caseloads and periodic turnover, in FY 2020, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 118 days, or approximately 32.3 % of the fiscal year.

The staff includes 2 attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2020, this office completed work on 231 cases, including one off-grid felony case.

Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2015		678
2016		688
2017		710
2018		683
2019		475
2020*	304	231

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Average number of cases handled by the Western Regional Public Defender in FY 2020:

Active Attys	FY 2020 Actual Cases Closed	FY 2020 Cases Still Active 7/1/20	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2020
2	231	159	389	194.5

Non-Capital Appellate Public Defender Offices

Kansas Appellate Defender Office

Established: 1985
Location: 700 SW Jackson Street, Suite 900, Topeka, KS 66603
Phone: 785-296-5484
Jurisdictions Covered: Statewide (appellate only)
Chief Public Defender: J. Patrick Lawless

In 1985, the Appellate Defender Office opened to represent indigent felony defendants across the state on their appeals in front of the Kansas Court of Appeals, Kansas Supreme Court, and on occasion the United States Supreme Court.

In 1994, an appellate defense program was established in partnership with the University of Kansas School of Law in Lawrence where an Appellate Defender staff attorney assists law students in preparing direct appeal briefs on actual criminal defense appeals. In 2005 a similar program was established in partnership with the Washburn University School of Law in Topeka. Both universities provide office space, equipment and student labor.

In 2002, capital appeals were separated from the Appellate Defender caseloads through the establishment of the Capital Appellate Defender and the Capital Appeals and Conflicts Office. These offices occasionally provide support to the Appellate Defender by taking non-capital or conflict appeals when their capital caseloads allow for it.

The Appellate Defender is staffed with 18 attorneys and five support staff, including 2 legal assistants, and three clerical staff.

Historical Office Caseload Statistics

FISCAL YEAR	APPEALS DOCKETED	APPEALS COMPLETED
2018	859	1,332
2019	954	1,120
2020*	750	981

*4th Quarter Caseloads were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

Capital Public Defender Offices

Capital Appellate Defender Office

Established: 2002
Location: 700 SW Jackson Street, Suite 903, Topeka, KS 66603
Phone: 785-368-6587
Jurisdictions Covered: Statewide (capital appeals)
Capital Public Defenders: Meryl Carver-Allmond, Clayton J. Perkins

In 2002, due to the increasingly significant number of capital appeals, the Capital Appellate Defender Office was one of two capital appeals offices established through new capital funding and the reassignment of several experienced attorneys from the Appellate Defender Office. Although this office focuses on capital appeals litigation in the Kansas Supreme Court and the United States Supreme Court, this office also occasionally provides support to the Appellate Defender by taking non-capital or conflict appeals when their capital caseloads allow for it.

The Capital Appellate Defender is staffed with 2 capital qualified attorneys and 1 support staff, a legal assistant.

Capital Appeals & Conflicts Public Defender Office

Established: 2002
Location: 701 SW Jackson Street, 3rd Floor, Topeka, KS 66603
Phone: 785-296-1833
Jurisdictions Covered: Statewide (capital appeals and capital conflicts)
Capital Appeals & Conflicts
Public Defenders: Debra Wilson, Reid Nelson

In 2002, due to the increasingly significant number of capital appeals and capital cases with co-defendants, the Capital Appeals and Conflicts Office was one of two capital appeals offices established through new capital funding and the reassignment of several experienced attorneys from the Appellate Defender Office. Although this office focuses on capital appeals litigation in the Kansas Supreme Court and the United States Supreme Court, this office also occasionally provides support to the Appellate Defender by taking non-capital or conflict appeals when their capital caseloads allow for it.

The Capital Appeals & Conflicts Defender Office is staffed with 2 capital qualified attorneys and occasionally received staffing assistance from the Third Judicial District Public Defender Office.

Capital Habeas Public Defender Office

Established: 2015
Location: 825 S. Kansas Ave., Suite 530, Topeka, KS 66612
Phone: 785-296-2546
Jurisdictions Covered: Statewide (capital habeas cases)
Chief Public Defender: Julia Spainhour

After a death sentence is upheld by the Kansas Supreme Court and any petition for certiorari has been unsuccessful for the defense at the United States Supreme Court, the next stage of a capital case involves a state capital habeas claim. Due to the progression of several capital cases to this stage of litigation, the Capital Habeas Office was established in 2015.

This office is staffed by five capital attorneys, including three defense trial attorneys, one capital investigation attorney, and one capital mitigation attorney, as well as one legal assistant.

Death Penalty Defense Unit Public Defender

Established: 1995
Location: 700 SW Jackson Street, Suite 500, Topeka, KS 66603
Phone: 785-291-3976
Counties Covered: Statewide (Capital Trial Level Cases)
Chief Public Defender: Mark Manna

In 1995, BIDS established the Capital Defense Coordinator Office in response to the enactment of the death penalty in Kansas. In 1996, that office was expanded and renamed the Death Penalty Defense Unit and began defending potential death penalty trial cases statewide.

The Death Penalty Defense Unit currently employs five capital qualified trial attorneys, and six support staff, including one investigator, two mitigation specialists, two legal assistants, and one clerical staff. This office is split between its main Topeka office and its satellite location in Wichita.

In FY 2020, there were seven new capital cases filed in Kansas, six of which the DPDU accepted for appointment. The seventh went to capital contract counsel due to co-defendant conflicts.

Assigned Counsel Operations

The Sixth Amendment to the United States Constitution provides every person with a right to effective legal representation when charged with a crime punishable by imprisonment.

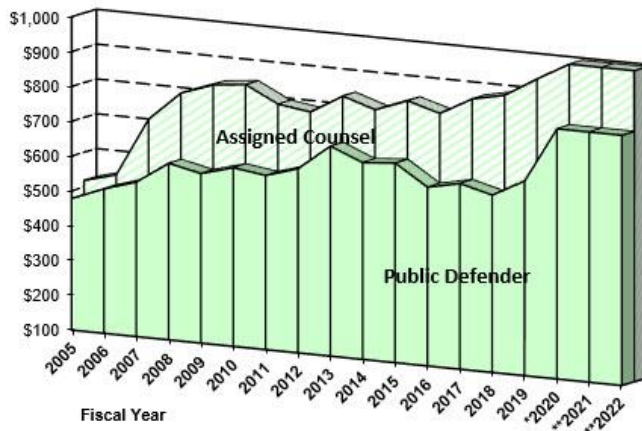
In geographic areas of Kansas where we do not operate a public defender office, this Sixth Amendment right to counsel is guaranteed to our clients entirely through the use of our assigned counsel system—where local attorneys who are qualified to take criminal cases sign up on the local appointments panels and agree to take the cases of indigent clients at a reduced rate of pay. Likewise, even in places where we operate a public defender office, our agency still regularly utilizes these assigned counsel panels to help us provide constitutionally guaranteed counsel to our clients. In those areas, our assigned counsel take cases where the public defender has a conflict of interest or when our public defenders cannot take any additional cases due to ethical and professional caseload concerns.

While traditionally, more cases were handled by our public defender offices, in recent years, that has changed. Due to ongoing turnover issues and caseload problems in our public defender offices, more and more cases have been passed on to our assigned counsel program. At a higher cost per case than our public defenders, that trend has substantially increased our assigned counsel expenditures. Until we are able to fundamentally and comprehensively address our caseload issues and turnover in our public defender offices, that trend is likely to continue.

In 2006, the Kansas Legislature increased our statutory rate of pay for our assigned counsel attorneys to \$80 per hour. However, in 2010, due to agency budget cuts, the Board had to exercise its statutory authority to reduce the hourly rate paid to our assigned counsel in order to meet our budget appropriations. The hourly rate was reduced down 22% to \$62 per hour for all work performed after January 18, 2010. Beginning in 2015, the Board slowly began increasing that hourly rate back up, finally returning to the statutory \$80 per hour rate for the first time in ten years in FY 2020.

In addition to the approximately 350 assigned counsel panel attorneys who serve on judicial indigent appointments lists throughout the state, BIDS also has 24 contract counsel in various counties across the state who have agreed to accept reduced rates of compensation.

Trial Public Defender and Assigned Counsel Cost Per Case



<u>Fiscal Year</u>	<u>Public Defender</u>	<u>Assigned Counsel Per Case</u>
2005	\$478	\$519
2006	\$515	\$545
2007	\$544	\$714
2008	\$607	\$798
2009	\$587	\$831
2010	\$613	\$841
2011	\$600	\$794
2012	\$629	\$781
2013	\$703	\$836
2014	\$665	\$806
2015	\$673	\$841
2016	\$613	\$814
2017	\$633	\$865
2018	\$609	\$885
2019	\$659	\$941
*2020	\$818	\$993
**2021	\$818	\$993
**2022	\$818	\$993

* The administrative costs are included in both public defender and assigned counsel cost per case.

** Estimated costs average based on a \$75/hour payment rate. Still \$5/hour lower than the statutory rate.

FY 2020 Felony Cases per County Defended by Assigned and Contract Counsel

17	12	19	27	13	12	12	10	22	72	53	93	47		
Cheyenne	Rawlins	Decatur	Norton	Phillips	Smith	Jewell	Republic	Washington	Marshall	Nemaha	Brown	Doniphan		
66	46	10	9	40	21	67	123	39	125	154	208	173		
Sherman	Thomas	Sheridan	Graham	Rooks	Osborne	Mitchell	Cloud	Clay	Riley	Pottawatomie	Jackson	Atchison		
10	12	2	48	242	92	12	36	39	273	35	742	91	526	
Wallace	Logan	Gove	Trego	Ellis	Russell	Lincoln	Ottawa	Dickinson	Geary	Wabaunsee	Shawnee	Jefferson	Leavenworth	957
13	8	44	4	28	39	60	650	24	204	90	97	659	788	
Greeley	Wichita	Scott	Lane	Ness	Rush	Ellsworth	Saline	Morris	McPherson	Marion	Osage	Douglas	Johnson	
38	48	133	13	99	390	87	204	14	298	67	228	146		
Hamilton	Kearny	Finney	Hodgeman	Pawnee	Barton	Rice	McPherson	Chase	Lyon	Coffey	Franklin	Miami		
23	41	11	31	601	29	437	441	106	67	67	92			
Stanton	Grant	Haskell	Gray	Ford	Edwards	Stafford	Reno	Harvey	11	125	296			
54	15	431	39	17	2	24	53	692	308	106	11	125	296	
Morton	Stevens	Seward	Meade	Clark	Comanche	Barber	Kingman	Sedgwick	Butler	Greenwood	Woodson	Allen	Bourbon	
15	431	39	17	2	24	73	195	404	5	43	143	324		
Stanton	Grant	Haskell	Gray	Ford	Kiowa	Pratt	Kingman	Sedgwick	Butler	Greenwood	Woodson	Allen	Bourbon	
54	15	431	39	17	2	24	73	195	404	5	43	143	324	
Morton	Stevens	Seward	Meade	Clark	Comanche	Barber	Harper	Sumner	Cowley	Elk	Wilson	Neosho	Crawford	
54	15	431	39	17	2	24	73	195	404	6	243	216	156	
Morton	Stevens	Seward	Meade	Clark	Comanche	Barber	Harper	Sumner	Cowley	Chautauqua	Montgomery	Labette	Cherokee	

Acknowledgements

We owe a big thanks to all the people whose work contributed to this report. Our administrative support staff including Kim Mason, Chief Financial Officer and Assistant Director, Beth Child, Human Resources Professional, Michael Troxell and Mike Adams, IT Consultants, and Susan Sebring, our Data guru, along with the rest of our administrative office support staff have worked hard to collect the data used throughout this report.

Additionally, the focus of many of the areas we've chosen to highlight and report is thanks to the thoughtful and honest feedback that we've been given by our current and former employees and our assigned counsel, as well as other legal community stakeholders.

The actual drafting and layout of this report was done by Heather Cessna, our Executive Director, with the assistance of Beth Child, Human Resources Professional. The cover photo is thanks to Meryl Carver-Allmond, Capital Appellate Defender.

Of course, our efforts to look long and hard at the issues within the agency and to develop long term solutions to our agency's problems would not have gotten off the ground without the support of our Board members: Ronald Wurtz, Braden Perry, Richard Ney, Patricia Hudgins, Dr. Michael Birzer, Jeffrey Leiker, Erica Andrade, and Laurel Michel.

But most importantly, we have to acknowledge the incredible perseverance and dedication that our BIDS employees and assigned counsel have shown day-in and day-out as they continue to work towards providing the best defense possible to our clients under truly difficult circumstances. Thank you to all of you. The work that you do is valued, the support you provide each other and to us is inspiring, and we could not continue to provide our core mission without you.



Kansas State Board of Indigents' Defense Services
FY 2020 Annual Report

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