

FY 2022 ANNUAL REPORT



### Kansas State Board of Indigents' Defense Services

# FY 2022 Annual Report

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Pictured on the front cover: Brandon Barrett, BIDS Administrative Staff Attorney, Audrey Nelson, Third Judicial District Assistant Public Defender, and Jason King, Third Judicial District Assistant Public Defender participate in a mock trial. Photo taken by BIDS Training Director Meryl Carver-Allmond.

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## FY 2022 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. <sup>1</sup>
24,609	In FY 2022, BIDS attorneys completed 24,609 felony criminal cases. Our public defenders completed 8,806 of those, or 36 %. Our private appointed counsel program handled 15,803 of those, or 64 %.
150	The 1973 National Advisory Commission on Criminal Justice Standards and Goals for the Defense set defense attorney workloads at <b>no more than 150 felonies per year</b> , no more than 400 misdemeanors per year, and no more than 25 appeals per year, per attorney. <sup>2</sup>
8	In FY 2022, out of BIDS' 11 non-capital trial public defender offices, 8 offices substantially exceeded 150 felonies per attorney, per year. <sup>3</sup>
3	In FY 2022, we had three public defender offices that refused new cases for 50% of the calendar year or more due to turnover issues and high caseloads. <sup>4</sup>
11 Hours	In FY 2022, our active trial-level public defenders only had, on average, about 11 hours per case, per year to spend defending each of their individual clients. <sup>5</sup>

<sup>&</sup>lt;sup>1</sup> Statistic provided by Kansas Sentencing Commission, February 2022.

<sup>3</sup> In FY 2022 the North Central Regional Public Defender Office in Junction City averaged 165 cases per active attorney, the Salina Regional Public Defender averaged 192 cases per active attorney, the Sedgwick County Public Defender Office in Wichita averaged 161 cases per active attorney, the Reno County Public Defender in Hutchinson averaged 180 cases per active attorney, the Tenth Judicial District Public Defender Office in Olathe average 275 cases per active attorney, the Western Regional Public Defender Office in Garden City averaged 240 cases per active attorney, the Southeast Regional Public Defender Office in Chanute averaged 205 cases per active attorney, while the Southeast Regional Public Defender Satellite Office in Independence averaged 235 cases per active attorney.

<sup>&</sup>lt;sup>2</sup> See N.A.C. Standard 13.12

<sup>&</sup>lt;sup>4</sup> In FY 2022, the Third Judicial District Public Defender in Topeka refused new cases for 196 days (54% of the year); the Northeast Kansas Conflicts Public Defender in Topeka refused new cases for 263 days (72% of the year); and the North Central Regional Public Defender Office in Junction City refused new cases for 311 days (85% of the year).

<sup>&</sup>lt;sup>5</sup> Average caseload per active trial attorney in FY 2022 was 183 cases. At 40 hours per week, 52 weeks per year, that leaves each attorney 11 hours per case, per attorney, per year to work an individual case.

## Letter from the Director

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

Kansas does not currently have enough experienced, qualified, and available criminal defense counsel to meet the volume of cases currently being charged by local prosecutors across the state.

As a state, we have been struggling to live up to our constitutional obligations under the Sixth Amendment of the United States Constitution to provide counsel in every adult felony criminal case that qualifies for an appointed attorney. As a result, there are significant delays in the appointment of counsel in jurisdictions across the state; many local counsel are overwhelmed with caseloads that are over national caseload standards and potentially violate professional rules of ethics; and clients, defense counsel, prosecutors, and judges alike are frustrated with the lack of assistance they are receiving to deal with these issues in their local jurisdictions. This is due both to a lack of qualified criminal defense counsel available to serve on our locally appointed panels along with lagging wages and high caseloads in our public defender offices that results in chronic turnover. For example, in FY 2022 we lost 1 out of every 5 public defenders, due to our low pay and stagnant wages compared to prosecutors' offices.

Eighty-five percent of all adult felony-level cases in Kansas require appointed counsel and BIDS provides all of those appointed counsel, so the impact of criminal defense counsel shortages has an outsized impact on the operations of our judicial system in Kansas.

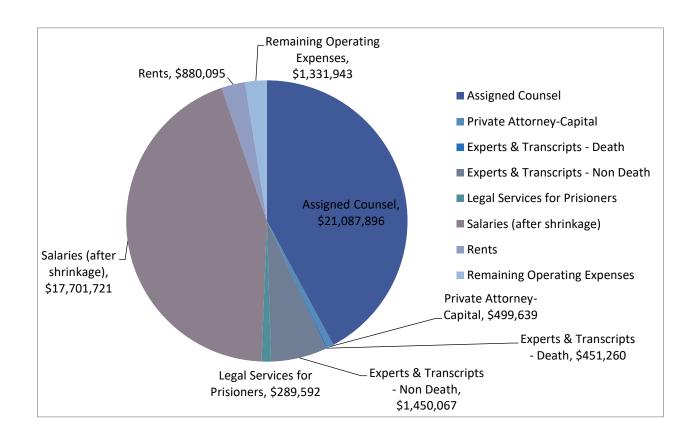
We specifically do not currently have the required number of capital-qualified attorneys to appropriately defend the number of capital cases currently charged in Kansas. As a result, we are contracting with attorneys from Missouri, Oklahoma, and Colorado to cover cases that we cannot fully handle with Kansas-based counsel. Without sufficient capital-qualified defense counsel, it is foreseeable that the State of Kansas will not be able to continue to charge capital cases while meeting its obligation to provide a constitutionally adequate defense. Meanwhile, we spend nearly 12% of our annual agency budget on capital defense costs due to the substantially more intensive national standards for defending capital cases, when the actual number of capital cases in our defense system is less than 1% of our total number of agency cases.

We either need fewer cases coming into our public defense system or we need to increase the capacity of our public defense system to handle the cases that are charged. This crisis of counsel in Kansas has been long in the making and it is not something we are going to be able to fix across a few years of small investments. We need a long-term, sustained commitment to address the needs of our public defense system and the needs of our criminal judicial system.

While these shortages and significant turnover rates are grim news, there have been some bright spots lately. Though public defenders suffered a turnover rate in FY 2022 of 1 out of every 5 leaving service, the legislature took decisive action during the Spring 2022 session and, with the Governor's recommendation, allocated almost 4 million dollars for FY 2023 to help BIDS make significant salary adjustments to our public defense employees. These salary adjustments should have a significant impact on our turnover rates in FY 2023. The Legislature also approved an increase to our assigned counsel rate for FY 2023 through a special budget proviso to raise our rate from \$100 per hour in FY22 to \$120 per hour in FY 2023. And in FY 2022 we were able to make significant advances with a more robust training program for our assigned counsel and public defenders, implemented an internal agency newsletter and completed much-needed updates to our website to make information about our services easier to obtain for our clients and the public.

We will need to continue that forward progress by working to address our counsel shortages and shoring up our public defender offices with the additional staffing required to provide the constitutionally required representation Kansans need. After all, in our Kansas legal system, there is no justice without us.

## FY 2022 Agency Appropriation: \$35,465,662



The FY 2022 Appropriation for BIDS was a total of \$35,465,662 with \$34,859,662 of State General Funds, \$600,000 from the Indigent Defense Services fee fund, and \$6,000 from the In-Service Education fee fund.

## **BIDS Background & History**

The Kansas State Board of Indigents' Defense Services was created by the 1982 Legislature for the purpose of providing indigent 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 Board succeeded the prior 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. 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 2022 Board Members

Member	Position	Term Expires
Michelle Ewert	Shawnee County Attorney Member	1/15/2023
Braden Perry, Board Chair	Johnson County Attorney Member	1/15/2023
Jeffrey Leiker	Wyandotte County Attorney Member	1/15/2021
Erica Andrade	3 <sup>rd</sup> Congressional District Public Member	1/15/2022
Patricia Hudgins	1 <sup>st</sup> Congressional District Public Member	1/15/2022
Dr. Michael Birzer, Board Secretary	4 <sup>th</sup> Congressional District Public Member	1/15/2022
Laurel A. Michel Driskell	1 <sup>st</sup> Congressional District Attorney Member	1/15/2024
Richard Ney	Sedgwick County Attorney Member	1/15/2022
VACANT	2 <sup>nd</sup> Congressional District Public Member	

# BIDS FY 2022 Board Meetings & Public Hearings

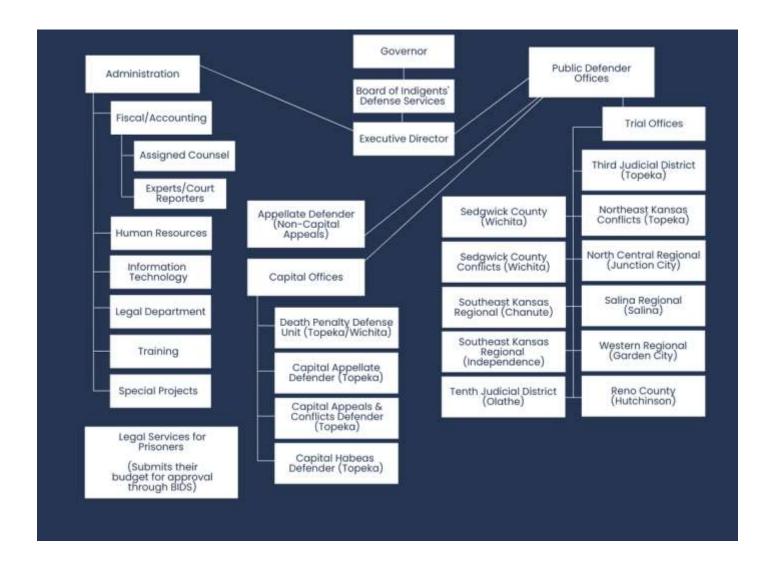
Date	Description/Location
July 16, 2021	General Business Board Meeting, Topeka, Kansas
August 8, 2021	Public Hearing on Potential 7 <sup>th</sup> Judicial District Public Defender Office, Lawrence, Kansas
August 13, 2021	General Business Board Meeting, Topeka, Kansas
September 10, 2021	General Business Board Meeting, Topeka, Kansas
December 10, 2021	General Business Board Meeting, Topeka, Kansas
January 22, 2022	Public Hearing on Potential 29 <sup>th</sup> Judicial District Public Defender Office, Kansas City, Kansas
January 28, 2022	General Business Board Meeting, Topeka, Kansas
February 11, 2022	General Business Board Meeting, Topeka, Kansas
March 4, 2022	General Business Board Meeting, Topeka, Kansas
April 22, 2022	General Business Board Meeting, Topeka, Kansas
May 11, 2022	General Business Board Meeting, Topeka, Kansas
June 3, 2022	General Business Board Meeting, Topeka, Kansas

# BIDS FY 2022 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
Brandon Barrett	Administrative Staff Attorney	October 2020
Meryl Carver-Allmond	Director of Training	October 2021
Ann Sagan	Director of Special Projects	March 2022
Jared Harsin	Director of Human Resources	March 2022

## **BIDS Organizational Structure**

## FY 2022



# Kansas Public Defender Offices

Office	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 2022 Public Defense Service Coverage Areas by Type

Counties With Public Defender Office Coverage	Counties with Contract Counsel Coverage	Counties with Assigned Counsel Panel Coverage
Allen Chautauqua Clay Dickenson Finney Geary Johnson Montgomery Morris Neosho Ottawa Reno Riley Saline Sedgwick Shawnee Wilson Woodson	Butler Cloud Geary Hamilton Jewell Johnson Kearney Lincoln Miami Mitchell Ottawa Reno Republic Saline Scott Sedgwick Washington	All Counties

## **BIDS Training Department Summary**

FY 2022 was the first year BIDS had a fully organized training department, with the new Training Director assuming that responsibility in mid-October 2021 (or for about <sup>3</sup>/<sub>4</sub> of the fiscal year).

#### **In-House Training**

While truly comprehensive statistics on BIDS training have not been kept prior to this fiscal year, BIDS has traditionally offered 12 hours of CLE per fiscal year (6 hours in October and 6 hours in June) open to both our public defenders and our assigned counsel attorneys. According to records that are available each of those CLEs had about 60 attendees in FY 2021.

With those numbers for comparison, here is a quick breakdown of the BIDS Training Division inhouse training in FY 2022. This training included special legal topics, well-being, leadership training, employment law, and training on working with marginalized groups within the criminal legal system, training for judges, and more.

•	Distinct trainings held: (including 2 two-day virtual conferences; 1 two-day in-person leadership conference and 1 half-day in-person capital conference)	25
•	Number of attendees: (547 public defenders and staff; 268 assigned counsel and others)	925
•	Hours of CLE credit offered:	40
•	Presenters: (42 public defenders and staff; 11 other presenters from within the Kansas system; 16 national presenters)	70
•	Approximate money raised for BIDS Education Fund:	\$10,535
•	Total hours of CLE credit reported by BIDS, including BIDS attorneys and assigned counsel:	2,001.5
•	Total hours of BIDS provided training attended by BIDS attorneys, staff, assigned counsel, and others:	2,415.5

#### **Outside Training**

In conjunction with BIDS Assistant Director, Kim Mason, and the Accounting Department, the BIDS Training Division additionally spearheaded the efforts to send our public defenders to outside training and to ensure our capital defenders are in compliance with their professional responsibilities to attend continued training in accordance with the ABA guidelines. This included developing a request system and workflow so that those requests can be addressed as efficiently as possible.

By explicitly requiring that those who attend outside training are required to teach in-house training when requested, those defenders will (and already are) extending those training experiences even further. And by building relationships with training organizations and making defenders aware of existing opportunities, we helped defray the costs of some of this training through scholarships.

Public defenders and staff
 sent to outside training (non-capital):

• Capital defenders and staff sent to outside training: 18

 Approximate scholarship funding obtained by BIDS attorneys and staff: \$16,159

#### **Special Projects**

The Training Division continued to publish monthly issues of the BIDS newsletter, *The Rap Sheet*, with the help of several co-editors.

The Training Division also spearheaded the development of a new BIDS mission statement, logo, and website in order to assist in building our identity as an agency and provide a place to share information. The newsletter will transition largely to the website in fiscal year 2023.

## Administrative Operations

The BIDS Administrative Office is staffed by 19.2 FTEs, including:

Executive Director (State Director),
Assistant Director (CFO),
Administrative Staff Attorney
Training Director
Human Resources Director
Director of Special Projects
Information Technology Support Consultants (4)
Data Systems Analyst, (Part-time)
Human Resources Professional,
Accountants (4)
Accounting Specialists (2)
Administrative Specialist (1)
Public Defender Interns

### **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 supervision and 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, Administrative Staff Attorney, Training Director, Special Projects Director, Human Resources Director, the Chief Defenders of each of the trial offices, the Chief Appellate Defender, and the Chiefs of each of the capital death penalty offices.

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, Shared 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 Human Resources Director and staffed by one Human Resources Professional.

## <u>Information Technology Systems Division</u>

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 directly supervised by the Assistant Director who also currently acts as the agency's Chief Information Security Officer. It is currently staffed with four Information Technology Consultants

#### **Legal Division**

The Legal Division consists of the agency's Administrative Staff Attorney who is directly supervised by the Director. The responsibilities of the Administrative Staff Attorney are to research and advise the Board on legal issues as they arise before the Board, assist the Director with Legislative research and advocacy, assist the Director and Human Resources with employment law issues as they arise, handle open records act requests, and respond to requests from clients seeking agency information or assistance with attorney issues or expert requests. The Administrative Staff Attorney also serves as a resource for in-agency public defenders and private attorneys acting as assigned or contract counsel on legal issues as needed. The Administrative Staff Attorney also regularly assists the Director in responding to requests from Judges to locate qualified counsel to take cases when the local public defender, contract attorneys, and assigned counsel panel cannot handle a case.

#### **Training Division**

The Training Division consists of the Training Director who is directly supervised by the Director. The responsibilities of the Training Division include providing in-house certified continuing legal education courses for both our in-house public defenders as well as our assigned counsel private appointed attorneys. The Training Division also works to provide other non-CLE trainings for our in-house attorneys and non-attorney staff. The Training Division is also responsible for coordinating an internal leadership conference for our Chief and Deputy Public Defenders. The Training Division also ensures our compliance with ABA policies on capital-qualified defense counsel by coordinating the attendance of all of our in-house and private appointed capital attorneys and staff at required nationally recognized capital training. Finally, our Training Division also occasionally takes on special projects such as the publication of the BIDS monthly newsletter, the revision of the BIDS website, and other projects as needed by the Administrative Office.

## **Special Projects Department**

The Special Projects Division consists of the Special Projects Director along with a rotating staff of public defender interns located in our trial and appellate offices throughout the state. The Special Projects Division supervises our BIDS Internship program which includes intern classes during the summer, fall, and spring semesters and combines real-world public defender offices experiences with a series of special enrichment opportunities for our interns. Interns are placed in trial level offices, capital offices, appellate offices, and periodically work on legislative issues during the legislative session. The Special Projects Division also works closely with the Director and Human Resources Division to proactively recruit public defender attorney and staff for vacant positions throughout the agency, serving as the agency's main recruiter.

# **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.

Due to high caseloads and significant turnover, in FY 2022, the North Central Regional Public Defender office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 311 days, or approximately 85% of the fiscal year.

This office is normally staffed by 11 attorneys and six support staff, including 2 investigators, 2 legal assistants and 2 clerical positions. In FY 2022, this office completed work on 952 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	1,501	1,468
2018	1,435	1,360
2019	1,224	1,253
2020*	1,228	1,168
2021*	1,122	1,079
2022	896	952

<sup>\*</sup>Caseloads in these years 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 2022:

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	FY 2022	FY 2022 Cases	Total Cases Closed	Total Avg Cases
Active Attys	Actual Cases	Still Active 7/1/22	+ Cases Active	handled per Atty FY
	Closed			2022
8	952	366	1318	165

#### 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: Danielle Hamilton Slate (until Dec. 2021); Jonathon Noble (started Jan. 2022)

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 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 263 days, or approximately 72 % of the fiscal year.

This office is typically staffed by 5 attorneys and 4 support staff that includes two investigators, one legal assistant, and one clerical position. In FY 2022, this office completed work on 472 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	611	591
2018	564	593
2019	638	600
2020*	687	614
2021*	443	514
2022	385	472

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
4	472	110	582	146

### **Reno County Public Defender Office**

Established: 1996

Location: 129 W. 2<sup>nd</sup> 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 2022, the Reno County Public Defender did not refuse cases for any portion of the year.

This office is currently staffed by six attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2022, this office completed work on 745 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	903	929
2018	1,030	1,080
2019	851	874
2020*	793	681
2021*	778	724
2022	738	745

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
6	745	332	1,077	180

### Salina Regional Public Defender Office

Established: 1973

Location: 119 W. Iron Ave., 6<sup>th</sup> Floor, 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 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 178 days, or approximately 49 % 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 three of the attorney positions have been consistently staffed for the past year. In FY 2022, this office completed work on 503 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	1,438	1,395
2018	1,272	1,270
2019	959	1,013
2020*	729	757
2021*	501	580
2022	386	503

<sup>\*</sup>Caseloads in these years 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 2022:

	FY 2022	FY 2022 Cases	Total Cases Closed	Total Avg Cases handled
Active Attys	Actual Cases	Still Active 7/1/22	+ Cases Active	per Atty FY 2022
	Closed			
3	503	74	577	192

### **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: Sonya Strickland

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 2022, this office remained open to appointments throughout the year by regularly meeting with the local Sedgwick County District Attorney and district court judges to control the volume of cases and types of cases flowing into the public defender's office. Cases not taken by the Sedgwick County Public Defender were absorbed by the Sedgwick County Conflicts Public Defender Office or by local private appointed counsel or private counsel contractors. Some potential cases received delayed charging by the Sedgwick County District Attorney to slow case flows into the public defender system. As a result of these collaborations, the Sedgwick County Public Defender office accepted a modified number of cases for all 365 days, or 100% of the FY 2022 fiscal year.

The office has 21 attorneys and 10 support staff positions, including two investigators, one social worker, two legal assistants, and five clerical staff. However, due to significant turnover issues, only 13 of this office's 21 attorney positions have been consistently filled during FY 2022. In FY 2022, this office completed work on 1,399 cases.

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FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	4,879	4,775
2018	4,852	4,897
2019	4,711	4,458
2020*	3,842	3,630
2021*	1,054	2,054
2022	1,454	1,399

<sup>\*</sup>Caseloads during these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
13	1,399	690	2,089	161

### **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 is staffed by some of our most experienced public defenders.

Due to high caseloads and periodic turnover, in FY 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 95 days, or approximately 26% 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 2022, this office completed work on 387 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	513	474
2018	481	516
2019	573	508
2020*	479	404
2021*	335	386
2022	381	387

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
5	387	264	651	130

## 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 4 attorneys and 2 support staff, including one legal assistant and one investigator. In FY 2022, the Chanute office completed work on 414 cases.

In FY 2022, the Chanute office did not refuse cases for any portion of the year.

Historical Office Caseload Statistics: Chanute Office

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	543	557
2018	594	540
2019	549	552
2020*	432	387
2021*	203	296
2022	588	414

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
4	414	405	819	205

The Independence Office is staffed by 2 attorneys and 1 support staff, including one legal assistant. In FY 2021, the Independence office completed work on 277 cases.

During FY 2022, the Independence office remained open to accepting cases throughout the year.

Historical Office Caseload Statistics: Independence Satellite Office

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	464	484
2018	469	465
2019	364	343
2020*	226	298
2021*	97	145
2022	370	277

<sup>\*</sup>Caseloads in these years 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 2021:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22		Total Avg Cases handled per Atty FY 2022
2	277	190	467	235

#### Third Judicial District Public Defender Office

Established: 1972

Location: 701 SW Jackson Street, 3<sup>rd</sup> Floor, Topeka, KS 66603

Phone: 785-296-1833

Counties Covered: Shawnee

Chief Public Defender: Cindy Sewell (Retired, Dec. 2021), Maban Wright (since Dec. 2021)

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 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 196 days, or approximately 54 % of the fiscal year.

The office is currently staffed by 11 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 2022, this office completed work on 980 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	1,380	1,277
2018	1,176	1,247
2019	1,210	1,177
2020*	974	963
2021*	1,034	888
2022	751	980

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
10	980	311	1,291	129

## **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 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 62 days, or approximately 17 % of the fiscal year.

This office has a staffing allocation of 17 attorneys, though only 12 of those were consistently filled in FY 2022. They also have 9 support staff including two investigators, four legal assistants, and three clerical staff. In FY 2022, this office completed work on 2,306 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED				
2017	2,473	2,540				
2018	2,789	2,667				
2019	2,686	2,754				
2020*	2,533	2,324				
2021*	2,784	2,611				
2022	2,230	2,306				

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
12	2,306	990	3,296	275

### **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: Christopher Mauldin

The Western Regional Public Defender Office was established in Garden City in 1994 to serve the 25<sup>th</sup> 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 25<sup>th</sup> Judicial District. In 1996, a Satellite office in Liberal opened in response to requests from the 26<sup>th</sup> 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 2022, this office temporarily refused appointments on new cases under K.A.R. 105-21-3(b) for 100 days, or approximately 27 % of the fiscal year.

The staff includes 3 attorneys and 3 support staff, including one legal assistant, one investigator, and one administrative assistant. In FY 2022, this office completed work on 371 cases.

#### Historical Office Caseload Statistics

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2017	688	710
2018	651	683
2019	423	475
2020*	357	231
2021*	365	426
2022	415	371

<sup>\*</sup>Caseloads in these years 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 2022:

Active Attys	FY 2022 Actual Cases Closed	FY 2022 Cases Still Active 7/1/22	Total Cases Closed + Cases Active	Total Avg Cases handled per Atty FY 2022
2	371	109	480	240

## 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 OPENED	APPEALS CLOSED			
2018	1,120	1,333			
2019	1,200	1,129			
2020*	932	975			
2021*	706	963			
2022	731	846			

<sup>\*</sup>Caseloads in these years 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)

Chief Capital Public Defender: Clayton J. Perkins (Appointed October 2021)

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, 3<sup>rd</sup> Floor, Topeka, KS 66603

Phone: 785-296-1833

Jurisdictions Covered: Statewide (capital appeals and capital conflicts)

Chief Capital Appeals &

Conflicts Public Defender: Reid Nelson (Appointed October 2021)

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 receives staffing assistance from the Third Judicial District Public Defender Office with whom they share an 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 six capital attorneys, including four defense trial attorneys, two capital mitigation attorneys, as well as one legal assistant, and two investigators.

### **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 eight capital qualified trial attorneys, and eight support staff, including one investigator, three mitigation specialists, two legal assistants, and two clerical staff. This office is split between its main Topeka office and its satellite location in Wichita.

# **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.

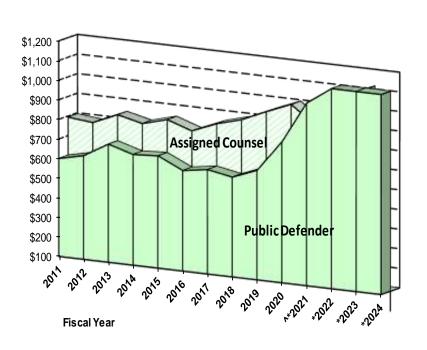
While traditionally, more cases were handled by our public defender offices, in recent years, that has changed. Due to ongoing turnover issues, lack of sufficient full time employee positions, and workload overload in our public defender offices, more and more cases have been passed on to our assigned counsel program. 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. During the 2021 Legislative Session, the Legislature allocated an additional 3.5 million dollars to BIDS specifically to increase the assigned counsel hourly rate in FY 2022 up to \$100 per hour through a special budget proviso. That additional funding has allowed BIDS to retain attorneys on our assigned counsel panels and continue to recruit additional attorneys on to those panels, though BIDS still faces a shortage of counsel across Kansas.

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

The cost per case difference between public defender offices and assigned counsel narrowed during FY 2022 as public defender cost per case was \$1,120 and the assigned counsel cost per case was \$1,062.

# Trial Public Defender and Assigned Counsel Cost Per Case

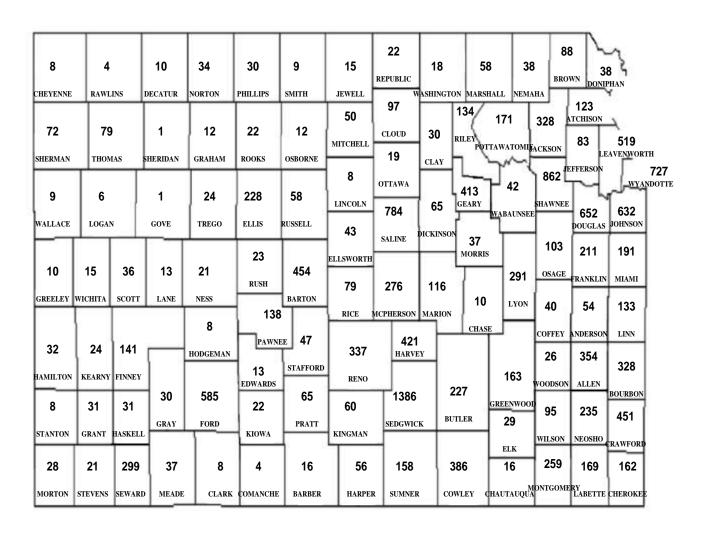


<u>Fiscal</u> <u>Year</u>	Public Defender	Assigned Counsel Per Case
2011	\$600	\$794
2012	\$629	\$781
2013	\$703	\$836
2014	\$665	\$806
2015	\$673	\$841
2016	\$613	\$798
2017	\$633	\$850
2018	\$609	\$885
2019	\$659	\$941
2020	\$818	\$993
^*2021	\$1,032	\$898
*2022	\$1,120	\$1,062
*2023	\$1,120	\$1,115
*2024	\$1,120	\$1,171

<sup>^</sup>FY2021 was substantially impacted by the COVID-19 pandemic.

<sup>\*</sup>The administrative costs are included in both public defender and assigned counsel cost per case.

## FY 2022 Felony Cases per County Defended by Assigned and Contract Counsel



# FY 2022 Cost per Case by County For Assigned and Contract Counsel

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## 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, Brandon Barrett, Administrative Staff Attorney, Beth Child, Human Resources Professional, Michael Troxell and Mike Adams, IT Consultants, and Susan Sebring, data analyst, along with the rest of our administrative office support staff that worked hard to collect the data used throughout this report.

The actual drafting and layout of this report was done by Heather Cessna, our Executive Director. The cover photo is thanks to Meryl Carver-Allmond, BIDS Training Director.

Of course, our efforts to continue looking in depth at the issues within the agency and to develop long term solutions to our agency's problems would be progressing without the support of our Board members: Braden Perry, Richard Ney, Patricia Hudgins, Dr. Michael Birzer, Jeffrey Leiker, Erica Andrade, Laurel Michel Driskell, and Michelle Ewert.

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 the truly difficult circumstances of day-to-day mass incarceration, not to mention a global pandemic. Thank you to all of you. Your dedication means the world to us as agency and to our clients whose lives depend on this noble work.



Kansas State Board of Indigents' Defense Services

# FY 2022 Annual Report

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