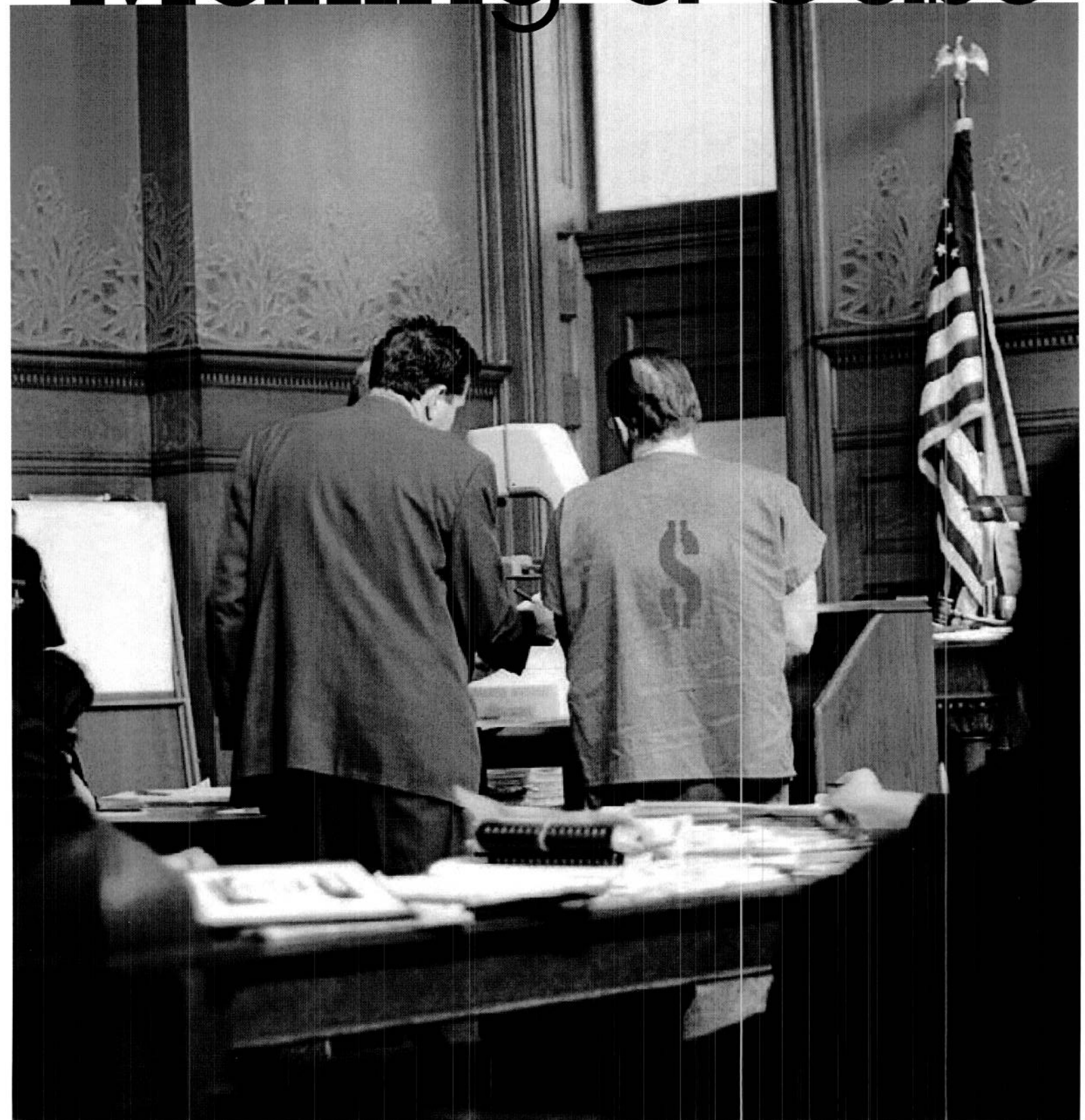


Making a Case



for Itself

Capital Public Defender Office Expands and Expands and Expands

By Maria Sprow

WHEN 50-YEAR-OLD RANDALL LEE Stephens was indicted for the murders of a Reeves County couple in May 2008, he appeared to be perfect for prosecution: the murders had been brutal. He had confessed to stabbing two people to death. He was a sex offender. And, he seemed to want execution.

Like every capital murder, it was first and foremost a tragedy where justice needed to be served. But justice, especially when it results in execution, is expensive, and taxpayers must pay not only for the prosecution, but also for the defense and the appeal – something that could have cost Reeves County taxpayers hundreds of thousands of dollars.

Fortunately, Reeves County is located in the seventh judicial region, and its commissioners court had signed on to be a member of the West Texas Regional Public Defender for Capital Cases, which billed itself as a type of “murder insurance.” The idea, born in 2007 by Lubbock County and supported by the then-named Task Force on Indigent Defense, was to create a regional defense office for capital cases for the rural and mid-sized Panhandle and West Texas counties, where attorneys qualified to represent defendants in capital cases are hard to come by. The regional office would be funded first by a state grant and then by a cost-share plan between all the participating counties; the actual formula takes into consideration the county’s total population and 10-year history of capital cases. Counties across the two regions jumped on board, with 77 out of 85 eligible counties participating.

Because of the office and the payment formula established by Lubbock County, Reeves County knew how much the defense for a capital case would cost them, and had already budgeted for the expense. So Stephens’ team of attorneys, investigators and mitigation specialists had free rein to work tirelessly to keep him from the death penalty. They reviewed his history, his mental health, his motives.

“Stephens was really kind of a volunteer. He really kind of wanted the death penalty I think and had written a number of letters to the prosecuting attorney indicating that,” said Chief Public Defender Jack Stoffregen, who heads the Regional Public Defender for Capital Cases office, adding that when the office first took on the case, Stephens did not want to plea. “The people assigned to the case were able to spend a lot of face time with him, literally hundreds of hours sitting in a cell with him, talking to him, getting to know him,

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getting to know what made him tick, until they were able, by the amount of time they spent, to develop a good trusting relationship with him. They made him feel that his life had some value, and it was really the first time he had ever felt that way in his entire life."

In the end, Stephens plead guilty and received Life Without Parole for his crimes.

Spending so much time and resources convincing a confessed murderer that his life has value may not seem like justice to many, but Stoffregen believes the plea was justice in action. It served the State, the victims and the defendant, he said.

"Had we not been able to work that case out and had it gone to trial, had our client been sentenced to death, not only do you have the cost of the trial itself, but you also have the automatic appeal, which can be pretty expensive, and you had some additional costs. By working it out with a guilty plea, we waived our right to appeal, so there is no appeal, and the case is disposed of without the necessity of a trial, which is advantageous to everybody," Stoffregen said. "(Stephens) was extremely happy with the outcome at the end of it, and I think the prosecutor was happy with it, and I know we were. I

think it was the advantage of having an office like this that got that case disposed of to everyone's satisfaction."

The Stephens case is not an anomaly for the Regional Public Defender for Capital Cases office. Since opening its doors four years ago, the office has been appointed to 40 cases from a total of 19 different counties and, as of Sept. 30, disposed of 29 cases. Only one of those cases resulted in a death sentence. Many of the others were resolved via guilty pleas, or when prosecutors withdrew the death penalty as a possible punishment, meaning that the Public Defender's office was no longer responsible for the defense. One case resulted in a not guilty verdict by reason of insanity.

As of Sept. 30, the office had 11 cases still pending, and its successes have been hailed and noted across the state.

In fact, early on, the office raised the eyebrows of county judges and commissioners whose counties were outside of the Panhandle and West Texas and were therefore ineligible for the program.

"When I first took office, I was familiar with the program being out in West Texas, and I had talked to some judges around here about trying to start our own program," said Limestone County Judge Daniel Burkeen, whose county is in the second administrative judicial region, which covers parts of East and Central Texas. "We had seen what it costs for a death penalty case that other counties had gone through. It's a phenomenal cost and it's one of those things that, for a rural county, there is no way you can really budget for that because it may not happen for 10 years. But you know it will happen eventually, and when it hits, you've got to pay for it. So it just makes sense to pool our money in a program like the Capital Public Defender's program."

Fortunately for the counties in want of the program, the office did start to expand, first in 2010 to the fourth, fifth and sixth administrative judicial regions covering South and Southwest Texas and then again in October to the second and third administrative judicial regions, which includes Limestone County. And the office has high hopes of opening its doors to the last regions standing, the first and eighth up in North and East Texas, by 2013.

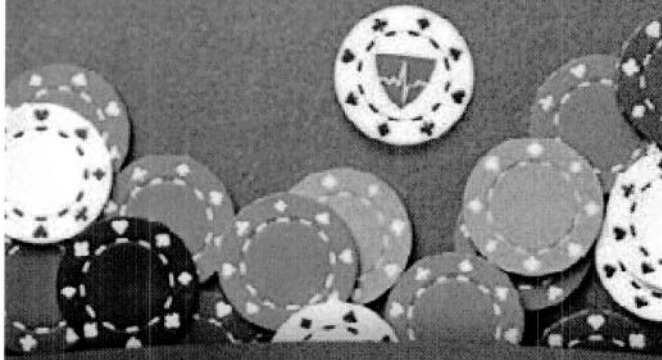
Though counties are given a one-year trial-type period in which they are eligible for the services but do not have to agree to become a participating member, Limestone County signed its inter-local agreement for participation at the first opportunity, Burkeen said.


"I think it's been probably 20 years since we've had a capital case. We haven't had one recently, but we've got about eight murder cases pending right now, one or two of which may be death penalty cases, they haven't made that decision yet, but we've just had a lot of murder cases, so it's been worrisome for us not knowing when one might happen and it's one of those things that you can't control if something happens within your boundaries," Burkeen said, adding that participation in the office will eventually cost the county around \$20,000 a year. "That's good insurance for a good capital murder defense program."

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