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THE OKLAHOMA BAR Journal

Volume 97 — No. 2 — February 2026

Criminal Law





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Julie Bays, Director, OBA Management Assistance Program

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2025 INDIAN LAW UPDATE

Presented by the OBA Indian Law Section

Original Program Date: Dec. 5, 2025 - MCLE 4/2

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Original Program Date: Dec. 10, 2025 - MCLE 8/2

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Original Program Date: Dec. 15, 2025 - MCLE 2/0

COLLEGE MASCOTS AND LEGAL ETHICS

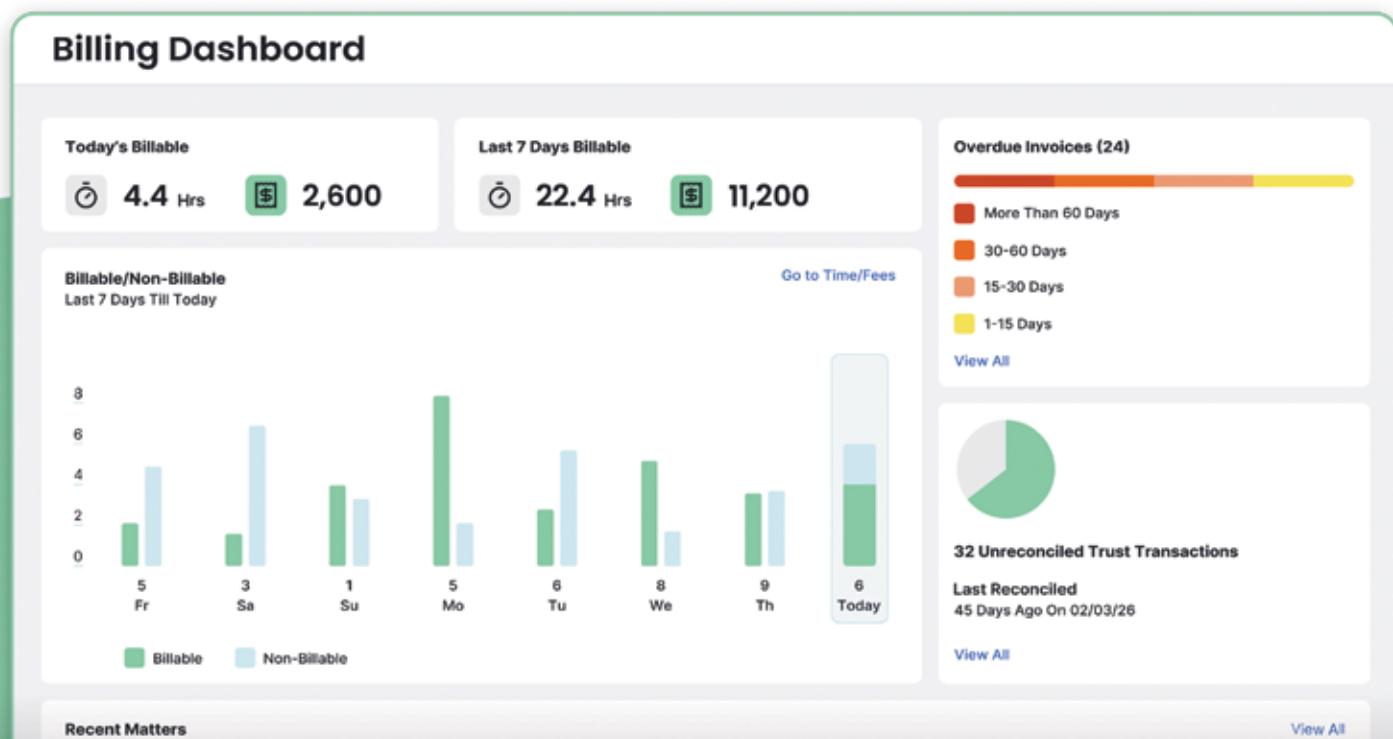
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Editor: Becky Baird

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Beyond the Courtroom: The Power of Lawyers in Everyday Life

By Amber Peckio

A S LAWYERS, WE KNOW ALL TOO WELL THAT the general public typically associates the legal profession with litigation. I am the first to admit that there are some (often great!) legal dramas, both fictional and nonfictional, played out on movie screens, TV shows and podcasts that tend to cultivate that perception. Even our friends and family may not fully understand that the true impact of lawyers is found in our daily work as advocates, problem-solvers, educators and civic leaders. So, while the work we do in courtrooms is significant, we lawyers also play a vital role in the health and stability of our communities, often in ways that extend far beyond courtrooms and legal briefs.

At its core, the legal profession exists to promote access to justice. The law is often complex, intimidating and out of reach for many people without guidance. Lawyers help bridge that gap by explaining rights, navigating procedures and advocating for fair outcomes. Through private representation, legal aid and pro bono work, lawyers ensure the justice system functions not just in theory but in practice. Communities are stronger when residents believe their rights are protected and their voices heard. To that end, I am very pleased to announce the formation of the new OBA Legal Desert Task Force, to be led by OBA President-Elect Jana Knott. The task force will carry forward the work that began under 2025 OBA President Ken Williams to ensure access to legal services in rural Oklahoma.



Amber Peckio is a solo practitioner with the Amber Law Group of Tulsa. 918-895-7216 amber@amberlawgroup.com

communities where few, if any, lawyers are practicing or where the previous generation of "small town" lawyers are getting set to retire. I look forward to sharing more about the work of this initiative as it gets underway in 2026!

Lawyers also serve as critical problem-solvers during moments of conflict or crisis. Families facing divorce, tenants confronting eviction, entrepreneurs starting new businesses and victims seeking protection all turn to lawyers for clarity and stability. By providing sound legal advice early, lawyers often prevent disputes from escalating into prolonged or costly conflicts. This ability to resolve problems efficiently benefits not only individual clients but also courts, businesses and communities.

Another essential function lawyers serve is protecting the rule of law. A community's trust in its institutions depends on the fair and consistent application of laws. We help maintain that trust by holding governments, corporations and individuals accountable. Whether drafting contracts, advising public bodies or challenging unlawful actions, we contribute to a system where rules are known, enforced and respected. That predictability is fundamental to economic development, civic engagement and public confidence.

The influence of lawyers frequently extends beyond legal representation. Many attorneys volunteer their time and expertise by serving on nonprofit boards, advising community organizations, coaching youth teams or mentoring students. Our understanding of

(continued on page 63)

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BAR NEWS IN A MINUTE



OBA DUES ARE DUE

The deadline to pay your 2026 OBA membership dues without a late fee is Tuesday, Feb. 17. Paper statements were mailed to those who had not yet paid. Please make your dues payment today! Visit your MyOKBar page to remit dues online.



REPORT YOUR 2025 MCLE CREDITS BY FEB. 17

The deadline to earn your required credit for 2025 was Dec. 31. The deadline to report your earned credit or a qualified exemption for 2025 is Tuesday, Feb. 17. Unless you are reporting an exemption, the minimum annual requirement is 10 general credits and 2 ethics credits for a total of 12 credits. All credit must be OK MCLE approved. Not sure how much credit you still need? Access your MCLE information by logging in to your MyOKBar page and clicking "My MCLE." Still need credit? Check out great CLE offerings at ok.webcredenza.com. If you have questions about your credit, email mcle@okbar.org.

SUPREME COURT ANNOUNCES UPDATE TO E-FILING SYSTEM

The Supreme Court of Oklahoma announced a major enhancement to its electronic filing (e-filing) system. Effective immediately, attorneys and approved filers may initiate new civil cases electronically through the existing e-filing portal on the Oklahoma State Courts Network website, www.oscn.net. This functionality is currently available for civil case types only in counties using the Oklahoma Court Information System.

E-filing, which was previously limited to filings in existing civil cases, now supports the electronic submission of case-initiating documents, streamlining workflows and reducing the need for in-person or mail-in filings at the courthouse.

To access the system, visit www.oscn.net and select *E-Filing*. Registration is required, and attorneys must have an Oklahoma bar number in good standing. All filings must comply with the Oklahoma E-Filing Technical Standards and applicable local court rules.

A NEW WAY TO EARN MCLE CREDIT

Recently, the Oklahoma Supreme Court amended the rules for mandatory continuing legal education to include writing scholarly articles that are published in the *Oklahoma Bar Journal*. The MCLE Commission will award 6 credits per published article for each contributing author. Contact OBA Communications Director and *Oklahoma Bar Journal* Managing Editor Lori Rasmussen to learn more about this opportunity. Visit <https://bit.ly/3ZepRZ3> to read the Supreme Court order.

SAVE THE DATE: OBA DAY AT THE CAPITOL

On Tuesday, March 17, join us for this year's OBA Day at the Capitol. The morning will kick off with speakers covering bills of interest, how to talk to legislators, legislative updates and more. Attendees will then have the opportunity to visit with legislators. Be sure to save the date and keep your eye out at okbar.org/dayatthecapitol for more information on how to register!

SAVE THE DATE FOR THE OBA MIDYEAR MEETING

Save the date for the OBA Midyear Meeting! This year's meeting, which will be held June 17-19 at the OKANA Resort in Oklahoma City, will focus on CLE opportunities for all practitioners as well as programming for solo and small-firm practitioners. Just like the previous Solo & Small Firm Conference, the Midyear Meeting will take place in a casual, family-friendly resort setting. We can't wait to see you there!

OKANA
RESORT & INDOOR WATERPARK

COURT OF EXISTING CLAIMS PANEL APPOINTED TO SERVE IN 2026

On Nov. 20, a three-judge panel was appointed to serve on the Court of Existing Claims (CEC) Division of the Court of Civil Appeals. Their terms began Jan. 1. This panel will serve through Dec. 31, 2026.

This panel consists of:



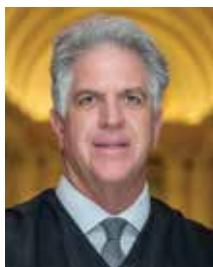
Presiding Judge
Robert D. Bell



Judge Thomas E.
Prince



Judge Jane P.
Wiseman



Judge James
Huber (Alternate)

IMPORTANT UPCOMING DATES

The Oklahoma Bar Center will be closed Monday, Feb. 16, in observance of Presidents Day.

OBA Day at the Capitol will be held Tuesday, March 17, from 9 a.m. to 3 p.m., at the Oklahoma Bar Center in Oklahoma City.

Be sure to docket the OBA Midyear Meeting, to be held at the OKANA Resort in Oklahoma City on June 17-19.

LHL DISCUSSION GROUPS TO HOST MARCH MEETINGS

Monthly Discussion Group: The Lawyers Helping Lawyers monthly discussion group will meet Thursday, March 5, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, March 12, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200.

Women's Discussion Group: The Tulsa women's discussion group will meet Tuesday, March 17, at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200; the Oklahoma City women's discussion group will also meet Thursday, March 26, at the first-floor conference room of the Oil Center, 2601 NW Expressway.

Each meeting is facilitated by committee members and a licensed mental health professional. The small group discussions are intended to give group leaders and participants the opportunity to ask questions, provide support and share information with fellow bar members to improve their lives – professionally and personally. Visit www.okbar.org/lhl for more information, and keep an eye on the OBA events calendar at www.okbar.org/events for upcoming discussion group meeting dates.

LET US FEATURE YOUR WORK

We want to feature your work on "The Back Page" and the *Oklahoma Bar Journal* cover! All entries must relate to the practice of law and may include articles, reflections or other insights.

Poetry, photography and artwork connected to the legal profession are also welcome. Photographs and artwork relating to featured topics may also be published on the cover of the journal. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Are you following the OBA on social media? Keep up to date on future CLE, upcoming events and the latest information about the Oklahoma legal community. Connect with us on LinkedIn, Facebook and Instagram.



2026 SOVEREIGNTY SYMPOSIUM

The 38th annual Sovereignty Symposium, presented by the OCU School of Law, will be held June 15-16 at the OKANA Resort in Oklahoma City. The symposium is currently inviting proposals for panel presentations and writing and poster competitions. More information about the symposium will be

announced soon. Visit www.sovereigntysymposium.com to learn more about the event.





When Rights Aren't Enough

A Survivor-Attorney's Critique of Victims' Rights in Oklahoma and Beyond

By Rhiannon K. Thoreson

I BECAME A CRIME VICTIM LONG BEFORE I EVER BECAME A LAWYER.

Before I understood the structure of a courtroom or the language of legal procedure, I knew what it felt like to sit in a courtroom, trembling and confused. I knew what it meant to be retraumatized by silence, delays and indifference. I learned the hard way that surviving the crime was only the beginning and that the criminal justice system could compound the trauma, even as it claimed to serve victims.

Years later, I would enter law school with that experience etched into my bones. I didn't become an attorney out of academic curiosity or ambition alone; I became one because I wanted to understand the system that had failed me and to help shape a better one. That dual perspective, as both a survivor and an attorney, has shaped every part of my legal career, even though I don't practice in the criminal arena.

HISTORICAL CONTEXT OF VICTIMS' RIGHTS

Historically, American criminal law positioned crime as a conflict between the state and the accused.¹ Victims were largely sidelined. Their injuries gave rise to public, not personal, claims, leaving them with no formal voice in court. That began to change during the 1970s and 1980s when survivors, feminist

legal theorists and grassroots advocates pushed for legal recognition of victims' interests.²

By the mid-1980s, every state had adopted some form of victims' rights legislation. The 1982 President's Task Force on Victims of Crime recommended sweeping reforms, and in 2004, Congress passed the Crime Victims' Rights Act (CVRA), codified at 18 U.S.C. §3771. This act created enforceable rights in federal cases, including the rights to be notified, present and heard during major stages of the criminal process.

States followed suit, with more than 30 enacting constitutional amendments. Oklahoma joined this movement in 1996, adding Article II, §34 to its state constitution and enacting the Oklahoma Victim's Rights Act.³

VICTIMS' RIGHTS IN OKLAHOMA: A LEGAL FRAMEWORK

Oklahoma's statutory and constitutional framework for victims' rights is detailed and promising on paper.⁴ Some of the rights crime victims are entitled to include:

- Being informed in writing of their rights
- Being notified and present at critical hearings
- Being heard regarding bail, plea deals, sentencing and parole
- Conferring with the prosecutor upon request
- Submitting a victim impact statement
- Asserting their rights in court through an attorney
- Seeking and receiving restitution

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Additional protections apply to specific categories of victims. Survivors of sexual assault are entitled to forensic medical exams at no cost,⁵ and those seeking protective orders may do so even when courts are closed.⁶ Victims of human trafficking may not be fined or jailed for acts committed under coercion and are entitled to shelter and legal support.⁷

THE ENFORCEMENT GAP: WHEN RIGHTS ARE THEORETICAL

Despite these legal guarantees, victims in Oklahoma and across the U.S. often find that asserting their rights is easier said than done. Too frequently, they are:

- Not informed of plea deals until after they occur
- Discouraged or prevented from giving victim impact statements
- Excluded from sentencing hearings
- Ignored when requesting restitution or safety protections

These experiences are not just anecdotal. A 2023 analysis by the National Crime Victim Law Institute⁸ identifies systemic failures in victims' rights implementation, highlighting how courts and prosecutors often overlook statutory rights to be present, informed and heard.

In Oklahoma, the statutory language allows victims to assert their rights "in any trial or appellate court,"⁹ but courts rarely, if ever, grant standing.¹⁰ There is no state-level enforcement body. No victim ombudsman. And limited to no precedent holding state actors accountable for noncompliance.

BARRIERS TO ENFORCEMENT

The reasons victims' rights go unenforced are both systemic and cultural:

- Lack of Awareness: Victims are frequently unaware of their rights, especially in the immediate aftermath of trauma.¹¹
- No Legal Representation: Most victims are not assigned counsel and cannot afford to hire their own. Prosecutors represent the state, not the victim.¹²
- Judicial Resistance: Some judges minimize victims' participatory rights, seeing them as advisory or inconvenient to court efficiency.¹³
- Prosecutorial Discretion: Prosecutors are not always inclined to consult with victims on plea deals, even when required by statute.¹⁴
- Cultural Inertia: The criminal justice system was never built with victims in mind. And institutional change has been slow.¹⁵

THE ETHICAL TENSION FOR PROSECUTORS

While prosecutors are often assumed to advocate for victims, their legal and ethical duties lie with the state. Their primary role is to represent the interests of the government, not any individual party. This structure ensures due process for the accused, but it also creates an inherent tension when victims believe the prosecutor is "their attorney," only to discover that their needs and the state's priorities do not always align.

This tension can manifest in several ways:

- Plea Negotiations: Prosecutors may enter into plea agreements without first consulting victims, even in serious felony cases. Although Oklahoma law gives victims the right to confer with the state's attorney, this is often treated as discretionary.
- Trial Strategy Decisions: Victims may hope to influence charging decisions or sentencing recommendations, particularly when they involve safety concerns or repeat offenders. But prosecutors, bound by evidentiary and strategic constraints, often make decisions without victim input or in direct opposition to it. These choices can feel dismissive, especially when not explained.
- Resource Constraints: High caseloads and limited staffing can lead to efficiency-driven decisions that marginalize victim involvement, even when the prosecutor is well-meaning.

Ultimately, prosecutors walk a fine ethical line. They must balance victim engagement with their obligation to ensure a fair trial, maintain impartiality and conserve public resources. But without mechanisms for independent victim representation, this balance often tilts away from victims, leaving them without meaningful recourse when their concerns are sidelined.

To bridge this gap, many district attorneys' offices employ victim-witness advocates, staff who are supposed to support victims by providing information, logistical help and emotional support.

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These advocates play a vital role. But they are not lawyers, and they are not independent. Their role is still situated within the prosecutorial office, meaning their advocacy is limited by the strategy, bandwidth and discretion of the prosecuting attorney.

This structure leaves victims without a truly independent voice in proceedings. When a victim's wishes diverge from the state's litigation goals, there is no neutral advocate empowered to assert those interests in court. Unlike defendants, who are constitutionally guaranteed legal representation, victims must rely on the goodwill of the prosecutor or seek private counsel at their own expense, which most cannot afford.

The absence of independent, state-funded legal representation means that victims' rights remain contingent, not guaranteed. For a system that purports to honor victims' dignity and participation, this is a profound and unresolved contradiction.

A SURVIVOR'S PERSPECTIVE FROM INSIDE THE SYSTEM

Before I studied case law or stepped foot into a courtroom as a legal professional, I was a victim of violent crime. Like many survivors, I entered the justice system not as a willing participant but as someone seeking safety, answers and some form of accountability. What I encountered instead was a system that, despite an evolving legal framework, often treated me as an afterthought.

I was never even told that I had any rights as a victim. And being a young 19-year-old college student completely unaware of how the court system worked, I had never heard of victims' rights. I was not

It is a troubling paradox: Victims are increasingly granted participatory rights under the law, but those rights are often honored only when someone with legal standing insists on them. Without enforcement mechanisms, these rights amount to well-intentioned promises, not legal guarantees.

given notice of hearings that I had a right to be present for, nor was I consistently notified of plea negotiations despite statutory mandates requiring such notice. Most significantly, I was denied the right to prepare and read a victim impact statement at sentencing.

Later, when I learned about victims' rights, I understood in retrospect what had gone wrong. It wasn't because the laws weren't there but because no one had enforced them. The system had failed to operationalize the rights afforded to me. There was no accountability, no remedy for non-compliance and no one assigned to advocate solely on my behalf.

It is a troubling paradox: Victims are increasingly granted participatory rights under the law, but those rights are often honored only when someone with legal standing insists on them. Without enforcement mechanisms, these rights amount to well-intentioned promises, not legal guarantees.

Even now, years later, I regularly hear from other victims who share

similar experiences – who weren't told they had any rights, whose victim impact statements were never read by the court, whose restitution claims were ignored or who were told by prosecutors that their input was unnecessary or unwelcome. These are not outliers; they are symptoms of a system that still struggles to treat victims as parties with agency.

As attorneys, we understand the importance of procedural due process for the accused. But due process for victims, though not identical, demands its own rigor. It includes timely notice, the opportunity to be heard and the right to participate meaningfully in proceedings that impact their safety, property and emotional well-being.

When victims' rights are denied, there are few clear remedies. Oklahoma law theoretically allows victims to "assert [their rights] individually, through an attorney or lawful representative, or by request, through the attorney for the state."¹⁶ But courts have been reluctant to grant victims

standing to enforce these rights independently, and there is little precedent supporting private causes of action for enforcement. Even the federal CVRA¹⁷ provides limited avenues for recourse, with most appellate remedies being discretionary rather than mandatory.

What my experience taught me, both personally and professionally, is that legal rights without enforcement are symbolic at best and retraumatizing at worst. We would never tolerate this level of procedural disregard for a defendant. We should not tolerate it for a victim.

CIVIL REMEDIES: THE ILLUSION OF LEGAL RE COURSE

One of the greatest challenges in enforcing victims' rights is the near-total absence of viable civil remedies. While Oklahoma's constitution permits victims to assert their rights in trial or appellate court, there is no private cause of action expressly created for victims whose rights are ignored or violated.¹⁸

Unlike civil rights statutes – such as 42 U.S.C. §1983, which allows individuals to sue state actors for constitutional violations – there is no analogous mechanism in Oklahoma or federal law that allows victims to recover damages or obtain injunctive relief when their statutory (or state constitutional) rights are denied.

Victims who attempt to assert claims under §1983 face significant barriers:

- Courts have routinely held that victims' rights laws do not create enforceable federal rights because those laws lack the "rights-creating"

language required by *Gonzaga Univ. v. Doe*,¹⁹ a threshold that victims' rights provisions fail to meet.

- Prosecutorial immunity often shields district attorneys and their staff from liability, even when they fail to honor victims' rights.²⁰
- Judicial immunity bars suits against judges who exclude or silence victims, even in contravention of statutory guarantees.²¹

The federal CVRA provides a mechanism to petition appellate courts for relief, but it offers no damages, no fee recovery and is often considered too burdensome or limited in scope to provide meaningful redress.²²

In other states, victims can sometimes seek enforcement through *mandamus* or declaratory relief, but even these remedies are time-sensitive and procedurally complex. For most victims, the practical effect is this: When rights are denied, there is no accessible or effective pathway to hold the system accountable.

This lack of remedy undermines the very purpose of codifying victims' rights – rights that exist only on paper and are functionally immune from challenge are not true rights. They are policy preferences. And until victims can access the courts to enforce them meaningfully, the promise of justice remains unfulfilled.

OPPORTUNITIES FOR REFORM

Reform must address both the legal and practical dimensions of enforcement. Key recommendations include:

- Appointment of Victims' Rights Counsel: In serious felony cases, victims should be assigned counsel to assert and protect their rights.
- Statutory Remedies for Violations: Victims need clearly defined remedies when rights are denied, such as exclusion of a victim from a hearing or failure to confer on plea bargains.
- Standing and Participation: Courts must clarify and enforce victims' standing to file motions and seek relief. States should adopt standing rules similar to the federal CVRA.
- Judicial Training: Mandatory continuing legal education (CLE) on victims' rights and trauma-informed practice should be required.
- State-Level Oversight: Oklahoma should establish an independent victims' rights ombudsman with authority to investigate complaints and enforce compliance.
- Technology for Notifications: Create centralized electronic systems that notify victims of all proceedings, case updates and outcomes.
- Funding for Community Advocacy: Increase Victims of Crime Act (VOCA) and state grant funds to support local nonprofits that serve and accompany victims.
- Comparative Policy Review: Other states, like Oregon, Arizona and Ohio, offer important lessons. Oregon provides state-funded legal representation to help victims assert their rights in criminal proceedings.²³ Victims in Oregon can

seek enforcement of their rights through appointed legal advocates, and the Oregon Constitution allows for meaningful participation and recourse.²⁴

Arizona's constitution also includes enforceable victims' rights, and the state has implemented a victim ombudsman and legislative oversight to track compliance.²⁵ Under Arizona Rev. Stat. §13-4437, victims are empowered to enforce these rights by filing motions, special actions or even seeking damages from governmental entities. Crucially, the Arizona attorney general's office maintains a victims' rights compliance administrator who serves as an ombudsman, takes complaints, conducts investigations and promotes compliance across state and county agencies.²⁶ Ohio similarly supports enforcement through court-appointed legal

assistance, and victims (or their representatives) can legally challenge violations of their rights through interlocutory appeals or writs and have courts appoint counsel when necessary.²⁷ These states demonstrate what is possible when legal rights are matched by infrastructure, funding and political will.

By contrast, Oklahoma's constitutional provisions are more aspirational than actionable. Without a victims' rights ombudsman or guaranteed access to legal counsel, enforcement is inconsistent and largely reliant on prosecutorial discretion. Establishing statutory mechanisms for enforcement, modeled after other states' approaches, would dramatically strengthen victim protections in Oklahoma.

Victims' rights shouldn't vary so drastically depending on the state in which a crime occurs. True justice requires consistency and accountability.

CONCLUSION

Victims of crime deserve more than symbolic rights. They deserve the ability to participate meaningfully, be treated with dignity and have recourse when the system fails them.

As members of the bar, we are gatekeepers to justice, not just for defendants but for all who come before the court. It is time to take victims' rights seriously, not just in theory but in action. We can look to states like Oregon, Arizona and Ohio for models of meaningful enforcement, and we must ask: What would it look like if Oklahoma followed suit?

To begin closing the gap between promise and practice, attorneys and policymakers can:

- Support legislation that creates a state victims' rights ombudsman with investigatory authority;



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The question is no longer whether victims deserve these rights. The question is whether we, as legal professionals, are willing to stand behind them.

- Advocate for the appointment of victims' rights counsel in violent felony cases, especially when plea deals or sentencing decisions are at stake;
- Push for court rules or statutes that clarify victims' standing to file motions and seek judicial remedies;
- Partner with local bar associations to offer CLE programming on trauma-informed practice and victims' rights enforcement;
- Encourage public defenders and prosecutors alike to adopt written policies on victim engagement; and
- Vote for and support district attorneys who prioritize robust victim participation.

The question is no longer whether victims deserve these rights. The question is whether we, as legal professionals, are willing to stand behind them. Only then can we fulfill the promise of a truly balanced, equitable legal system.

ABOUT THE AUTHOR



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ENDNOTES

1. Douglas E. Beloof, "The Third Wave of Crime Victims' Rights: Standing, Remedy, and Enforcement," 2005 *BYU L. Rev.* 255, 258.
2. See Erin Daly and Jeremy Sarkin, *Reconciliation in Divided Societies: Finding Common Ground*, 142 (Univ. of Pa. Press 2007); and Mary P. Koss, "The Crime Victims' Rights Movement: Past, Present and Future," 39 *Pepperdine L. Rev.* 165, 166-70 (2011) (describing how feminist legal advocates catalyzed systemic change in how victims were treated).
3. 21 O.S. §142A-1 *et seq.*
4. See Okla. Const. art. II, §34 and 21 O.S. §142A-1 *et seq.*
5. 21 O.S. §142A-3.
6. 22 O.S. §60.2.
7. 21 O.S. §748.2.
8. "Ten Common Victims' Rights," available at <https://bit.ly/3LzJgAw>.
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10. Significantly, there are no published cases in Oklahoma addressing victims' rights.
11. U.S. Dept. of Justice, Office for Victims of Crime, *Vision 21: Transforming Victim Services* (2013), at 16-18.
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13. Mary Margaret Giannini, "Equal Rights for Equal Rites? Victim Allocution, Defendant Allocution, and the Crime Victims' Rights Act," 26 *Yale L. & Pol'y Rev.* 431, 457-59 (2008).
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16. Okla. Const. art. II, §34(A)(10).
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18. Okla. Const. art. II, §34(B).
19. 536 U.S. 273 (2002).
20. See *Imbler v. Pachtman*, 424 U.S. 409 (1976).
21. See *Stump v. Sparkman*, 435 U.S. 349 (1978).
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26. See Arizona attorney general's website, available at <https://bit.ly/4aLFoGQ>.
27. Ohio Rev. Code §2930.01 *et seq.*



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The Administrative Side of Driving While Under the Influence: The Complicated and Unknown

By *Sabah Khalaf*



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"A person's claim to a driver's license is a protectable property interest that may not be terminated without due process of law under the United States Constitution. Oklahoma's Constitution provides no less protection."¹

Every driver operating a motorized vehicle on a public road has agreed to follow a few rules. They have agreed to obey "the laws of the road" by following traffic signs and stoplights and operating their vehicles with due care. Drivers implicitly agree to abstain from engaging in reckless conduct or being inattentive while operating their vehicles. In Oklahoma, drivers agree to a test of their "blood, breath, saliva, or urine to determine the presence or concentration of alcohol or other intoxicating substances if arrested for offenses related to driving under the influence or if involved in a traffic accident resulting in serious injury or death."² Refusal to submit to the state's test or having a blood alcohol content (BAC) of 0.02% or above if under 21 years of age or over 0.08% if over 21 years of age allows Service Oklahoma

(SOK) to revoke their license for a period of 180 days if the arresting officer had reasonable grounds to believe the driver was operating the vehicle under the influence.³ The driver, after an arrest for driving under the influence (DUI), can contest administrative action by SOK by filing an appeal before the district court in order to keep their driving privileges.⁴ Winning an implied consent hearing, also known as a driver's license appeal, is imperative for a driver to keep valid driving privileges without an interlock restriction.

WHAT IS AN IMPLIED CONSENT HEARING?

Implied consent hearings are administrative proceedings that occur after a driver is arrested for DUI or actual physical control (APC) of a motor vehicle if

the arresting officer submits an officer's impaired driving affidavit to SOK reflecting that the driver either refused to comply with the implied consent laws or had a BAC over the legal limit. These hearings are civil in nature and distinct from any criminal charges related to driving while under the influence of drugs or alcohol. However, the basis for the hearing arises from the criminal act of driving under the influence or APC. The primary purpose of these hearings is to determine whether a revocation of the driver's license is justified based on specific statutory criteria. The hearing focuses on:

- That the officer had reasonable grounds to believe the person was operating a motor vehicle while under the influence;

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- That the person was lawfully arrested;
- If timely requested, the person was not denied a breath or blood test;
- The specimen was obtained within two hours of arrest;
- The person was advised that their driving privileges would be revoked if they tested over the legal limit; and
- The test result, in fact, reflects the alcohol concentration.⁵

PROCEDURAL HISTORY OF IMPLIED CONSENT LAWS IN OKLAHOMA

The administrative codes and statutes governing implied consent hearings are primarily found in Title 47 of the Oklahoma Statutes. Title 47 O.S. §6-211 provides an avenue and requirements for a district court appeal to contest a driver's license revocation. Title 47 O.S. §759 establishes the regulatory power of the Board of Tests for Alcohol and Drug Influence regarding the prescription of "uniform standards and conditions for, and to approve satisfactory methods, procedures, techniques, devices, equipment and records for, tests and analyses and to prescribe and approve the requisite education and training for the performance of tests or analyses of breath to determine the breath alcohol concentration."⁶

The procedures for appealing a driver's license revocation have dramatically changed in the last few years. Under the old system, which was handled by the Oklahoma Department of Public Safety and had been in place for decades, the revocation process began when a police officer made an arrest and served the licensee

with what was called an "officer's affidavit and notice of revocation." The affidavit contained a great deal of information about the incident. It covered the date and time of the alleged offense, the name of the arresting officer, the name of the arresting officer's agency or department, a description of the driving behavior, a description of the person's physical condition and information about the breath test result or refusal. This information was the basis for the revocation.

Prior to 2019, if a driver had been arrested for DUI and did not take the state's test, they only had 15 days to request an administrative hearing or face an automatic license suspension. However, in 2019, the Oklahoma Legislature passed a bill creating the Impaired Driver Accountability Program (IDAP). IDAP is an alternative route a driver, who is subject to a driver's license revocation, may exercise following a DUI arrest. This program allows participants to retain driving privileges by installing an ignition interlock device (IID) in their vehicle rather than losing their driving privileges.⁷ If one is enrolled in IDAP, they are required to pay certain fees, install approved ignition interlock devices and follow all the other requirements.⁸ Furthermore, the Oklahoma Board of Tests is the controlling body over the program and is able to "promulgate rules necessary to regulate ignition interlock devices and the providers of such devices, which shall be subject to suspension or revocation in accordance with the rules promulgated by the Board."⁹

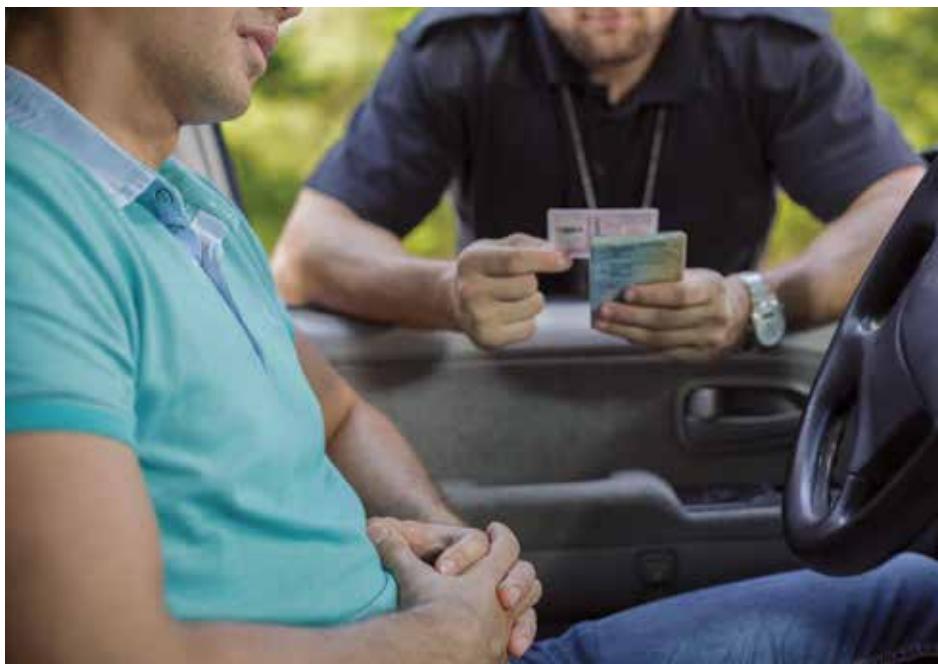
BURDEN OF PROOF AND PROCEDURES

SOK has the burden of proof, by a preponderance of the evidence,

in driver's license proceedings.¹⁰ Driver's license appeals are exempt from the Oklahoma Pleading Code and the Discovery Code.¹¹ Driver's license appeals are not exempt from the Oklahoma Evidence Code.¹² After an arrest for DUI or APC, the arresting agency is tasked with providing SOK with information so that SOK can determine if taking action is warranted. SOK has 180 days from the arrest or from the results of a blood draw to take action.¹³ If SOK does not take action within 180 days, no action can be taken against the licensee for the DUI or APC arrest unless they are convicted of DUI or APC.¹⁴

SOK is required to send a notice to a licensee, and it is generally mailed to the address on file with SOK (generally the address on their driver's license). If a licensee gets a notice from SOK within 180 days of their arrest, they have 30 days to file a district court appeal (DCA), or they lose that right forever.¹⁵ A licensee also has the option to forgo a DCA and enroll in IDAP. If the licensee chooses to enroll in IDAP, they are required to comply with the rules of the Oklahoma Board of Tests by having an interlock device installed in any vehicle they drive.¹⁶ If the licensee exercises their right to a DCA and wins, they do not lose their driving privileges, and there is no action taken by SOK.¹⁷ If they exercise their right to a DCA and lose, they're required to participate in IDAP before they're eligible to reinstate their driver's license without restrictions.¹⁸

A DCA is essentially a bench trial where SOK is required to prove the elements contained in 47 O.S. §§751-759. SOK is not required to disclose which witnesses or evidence will be introduced at the trial and generally does not



provide exhibits until moments before the trial begins. Despite being the defendant in the action, the burden of proof is solely with SOK, and they start the trial by calling witnesses or introducing evidence. Once SOK rests, the licensee is allowed to present witnesses or evidence, and the court generally renders its opinion at the conclusion on the record. If the court finds that SOK did not meet its burden, the court will sustain the licensee's petition and set aside the revocation. If the court finds that SOK met its burden, the court generally overrules the petition and sustains the revocation. The revocation period is generally 180 days for a first offense, one year for a second offense and two years for a third offense within 10 years.¹⁹ Additionally, "the revocation of the driving privilege of any person under Section 6-205, 6-205.1, 753, or 754 of this title shall not run concurrently with any other revocation of driving privilege under Section 6-205, 6-205.1, 753, or 754 of this title resulting from a different incident."²⁰

ATTORNEY FEES

If SOK takes action against a licensee that does not serve a reasonable basis or is frivolous, SOK could be on the hook for attorney fees and costs.²¹ For example, in *Johnson v. State, ex. rel. DPS*, DPS erroneously issued a driver's license revocation notice after the plaintiff's driver's license revocation had already been set aside.²² Mr. Johnson filed a driver's license appeal, and DPS restored his driving privileges upon receipt of the appeal.²³ The trial court found that there was no reasonable basis for this revocation and awarded Mr. Johnson his attorney fees and costs, including expert witness fees, incurred in the action. The Oklahoma Court of Civil Appeals found that the trial court properly held that DPS had no reasonable basis for suspending the plaintiff's driver's license and affirmed the trial court's award.²⁴

The Oklahoma Court of Civil Appeals based its decision in *Johnson* on a case where DPS admitted it lacked authority to

suspend an out-of-state driver's license.²⁵ However, DPS revoked Mr. Miller's driving privileges even after case law directed that his privileges be restored.²⁶ The trial court, and later the appellate court, determined that DPS's actions were unreasonable and awarded Mr. Miller his attorney fees and costs.²⁷

In 2022, the Oklahoma Court of Civil Appeals affirmed that DPS acted unreasonably when it suspended the plaintiff's driving privileges based on pending traffic violations that had not become convictions.²⁸ In *Currington*, an abstract was sent to DPS noting three convictions for traffic violations. DPS issued a letter and notice of suspension based on these convictions.²⁹ However, this abstract was incorrect, and they were pending matters rather than convictions.³⁰ Mr. Currington and his attorneys attempted to contact DPS and rectify the situation but were unsuccessful. Immediately before the suspension took effect, Mr. Currington filed his appeal. The trial court determined that the suspension by DPS was unreasonable, and the Oklahoma Court of Civil Appeals affirmed.³¹

In January 2025, the Oklahoma Court of Civil Appeals reversed the trial court and found that the actions by SOK in revoking a driver's license without proper notice lacked a reasonable basis and were subject to attorney fees and costs.³² On Dec. 17, 2022, Mr. White was arrested for suspicion of DUI, and a blood draw was performed.³³ The notice provided to Mr. White at the time of his arrest advised that he would receive a notice informing him of the commencement of a revocation.³⁴ Mr. White heard nothing for over a year, and on Jan. 3,

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2024, SOK mailed him a notice and order of revocation that was dated June 23, 2023.³⁵ Despite not sending the notice for over six months from the date it was created, SOK did, in fact, revoke Mr. White's driving privileges on the original date of the notice without giving him meaningful notice.³⁶ The appellate court determined the actions by SOK did not provide Mr. White with notice, and, thus, those actions were taken without a reasonable basis or were frivolous.³⁷ Consequently, SOK was held liable for Mr. White's reasonable attorney fees and costs.

CONCLUSION

The administrative side of a DUI or APC is an ever-changing landscape through legislative changes and procedural challenges. It is a highly nuanced area of law that requires thorough research and commitment to stay current on the changes and their applications.

ABOUT THE AUTHOR



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1. *Hunsucker v. Fallin*, 2017 OK 100, ¶¶14-15; see also *Bell v. Burson*, 402 U.S. 535, 542 (1971).
2. 47 O.S. §751 (A).
3. 47 O.S. §754 (B).
4. 47 O.S. §754 (C).
5. 47 O.S. §754; *Smith v. State ex rel. Dept. of Pub. Safety*, 680 P.2d 365, 368, 1984 OK 16, ¶16 (Okla. 1984).
6. 47 O.S. §759.
7. 47 O.S. §6-212.5.
8. *Id.*
9. *Id.*
10. *Hollis v. State, ex rel. Dept. of Public Safety*, 2008 OK 31, ¶8, 183 P.3d 996, 999.
11. 47 O.S. §6-211(A).
12. *Muratore v. State ex rel. Dep't of Pub. Safety*, 2014 OK 3, 320 P.3d 1024 (2014).
13. 47 O.S. §754.

14. 47 O.S. §6-205.
15. 47 O.S. §6-211.
16. 47 O.S. §6-212.5.
17. 47 O.S. §6-211(H).
18. 47 O.S. §6-205.1(A)(1).
19. *Id.*
20. *Id.*
21. 12 O.S. §941.
22. *Johnson v. State, ex. rel. DPS*, 2018 OK CIV APP 4, ¶12.
23. *Id.* at ¶3.
24. *Johnson v. State, ex. rel. DPS*, 2018 OK CIV APP 4.
25. *Miller v. State ex. rel. DPS*, 1996 OK CIV APP 71.
26. *Id.*
27. *Id.*
28. *Currington v. State ex. rel., DPS*. 2022 OK Civ. App. 1.
29. *Id.*
30. *Id.*
31. *Id.*
32. *White v. State, ex. rel. Serv. Okla.*, 2025 OK CIV APP 20, at ¶¶1 and 14.
33. *Id.* at ¶2.
34. *Id.*
35. *Id.* at ¶4.
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37. *Id.* at ¶11.



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Admissible at What Cost? Senate Bill 607 and Its Constitutional Concerns

By Virginia D. Henson, Margaret A. East and Mahak H. Merchant

IN MAY 2025, THE OKLAHOMA LEGISLATURE QUIETLY ENACTED SENATE BILL 607 (S.B. 607), to be codified at 12 O.S. §2803.3, in response to the state's record-breaking domestic violence homicide rates and at the Oklahoma Domestic Violence Fatality Review Board's recommendation.¹ S.B. 607 mandates the admissibility of certain victim statements made shortly after an incident of domestic abuse, including statements made to law enforcement officers, statements made on an application for a protective order and testimony made at a hearing on an application for a protective order.²

Facially, S.B. 607 makes it easier for the prosecution to admit a victim's statements alleging domestic abuse. Yet, by making such statements automatically admissible in certain stages of the prosecution, S.B. 607 walks a constitutional tightrope with a razor-thin margin for error. Specifically, S.B. 607 runs afoul of the Sixth Amendment's confrontation clause, undermines due process, blurs the burden for proving domestic abuse and lacks recourse for the defendant, especially when protective orders are used in family and domestic matters for any purpose other than their intended purpose.

UNDERSTANDING S.B. 607

S.B. 607 was authored by Sen. Brent Howard and introduced in the Oklahoma Senate on Jan. 14, 2025. Throughout the legislative session, S.B. 607 underwent the Oklahoma Constitution's promulgation process. On May 8, 2025, S.B. 607 was sent to Gov. Kevin Stitt. Just one week later, the bill became law without the governor's signature.³ S.B. 607 reads:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2803.3 of Title 12, unless there is created a duplication in numbering, reads as follows:

A statement that purports to narrate, describe, report, or explain an incident or incidents of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes:

1. Made by the victim of domestic abuse to a law enforcement officer within one (1) week of the incident;
2. On an application for a protective order by the victim of domestic abuse within one (1) week of the incident; or
3. Given as testimony of the victim of domestic abuse made at a hearing on application for a protective order,

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shall be admissible in pre-trial or post-trial criminal and juvenile delinquent domestic abuse prosecutions including preliminary hearings, prosecutive merit hearings, or hearings on the revocation of probation or acceleration of a deferred judgment.

SECTION 2. This act shall become effective November 1, 2025.⁴

The definition of “domestic abuse” incorporated in S.B. 607 is borrowed from Title 22, which governs criminal procedure. Under Chapter 60.1 of Title 22, the Protection from Domestic Abuse Act, domestic abuse is “any act of *physical* harm or the threat of imminent *physical* harm” against another “who is currently or was previously an intimate partner or family or household member.”⁵ Note that domestic abuse is defined narrowly, referring exclusively to acts of physical abuse.⁶ Importantly, other forms of abuse, including sexual abuse (unless physical in nature), mental or emotional abuse and coercive control, are excluded from this definition.



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The Legislature's use of the word "shall" in S.B. 607 results in a mandatory directive: A victim's statement purporting an incident of domestic abuse *must* be admissible in certain proceedings.⁷ These proceedings include pretrial or posttrial criminal and juvenile delinquent domestic abuse prosecutions. And while the Legislature's use of the word "or" in S.B. 607 might suggest that the victim's statement is admissible in one but not both stages of the prosecution, S.B. 607 is unlikely to be interpreted so restrictively.⁸ Practically, prosecutors are likely to invoke admissibility in both pretrial *and* posttrial proceedings. Interestingly, the statements made in a victim protection order (VPO) filing by the alleged victim are admissible by the clear language of the statute even if the VPO is abandoned or denied.

S.B. 607 is inapplicable to family and domestic matters.⁹ Nevertheless, family law practitioners ought to be aware of and familiar with S.B. 607. Proof of domestic abuse, including the entry of a protective order or a recent domestic abuse conviction, directly and negatively affects child custody and visitation, which are often highly contested issues in family and domestic matters and can leave the litigant convicted of domestic abuse liable for the victim's attorney's fees for all family court proceedings.¹⁰ Though to be sure, *all* practitioners should be concerned that S.B. 607 raises four separate constitutional concerns.

FOUR CONSTITUTIONAL CONCERNs RAISED BY S.B. 607

S.B. 607 raises four constitutional concerns: 1) It runs afoul of the Sixth Amendment's confrontation clause,

2) it undermines due process, 3) it blurs the burden for proving domestic abuse, and 4) it lacks recourse for the defendant, especially when protective orders are misused in family and domestic matters. Each of these concerns is taken in turn.

Confrontation Clause

The first and arguably most important constitutional concern is that S.B. 607 runs afoul of the Sixth Amendment's confrontation clause.¹¹

The Sixth Amendment's confrontation clause provides, "In all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him."¹² The central inquiry under the confrontation clause is whether an out-of-court statement is testimonial hearsay.¹³ Statements are not testimonial hearsay when objective circumstances indicate the statement's primary purpose is to enable police assistance in an

ongoing emergency.¹⁴ Conversely, statements are testimonial hearsay when the statement's primary purpose is to establish or prove past events potentially relevant to later criminal prosecutions, and no ongoing emergency exists.¹⁵ When a statement is testimonial hearsay, the confrontation clause generally bars its admission unless the declarant is unavailable, and the defendant had a prior opportunity to cross-examine the declarant.

S.B. 607 runs afoul of the confrontation clause because the kinds of statements for which S.B. 607 mandates admissibility are, by their very nature, likely to be deemed testimonial hearsay. S.B. 607 applies to three kinds of statements: 1) statements made by the victim to law enforcement within one week of the domestic abuse incident, 2) statements made by the victim on an application for a protective order within one week of the domestic abuse incident and

S.B. 607 may reflect the Legislature's effort to 'strike a balance between fairness for the defendant and the victim witness' to ultimately 'reduce barriers' for the latter.²⁰ But a balance is not struck if the reduction of barriers for the victim witness costs the defendant their constitutional right to confrontation.²¹

3) testimony the victim gives at a hearing on their application for a protective order. All three of these statements are made to establish or prove a past event or past events of domestic abuse and are relevant to a later domestic abuse prosecution. The statements enumerated in S.B. 607 are precisely the kind of testimonial hearsay that triggers the confrontation clause, yet S.B. 607 mandates their admission even if the declarant is not subject to cross-examination.

A similar hearsay exception, the child hearsay exception, codified at 12 O.S. §2803.1, serves as a cautionary tale from which S.B. 607 could learn. In *Foot v. State*, the Oklahoma Court of Criminal Appeals found that the child hearsay exception was unconstitutional because it ran afoul of the Sixth Amendment's confrontation clause.¹⁶ As originally codified, the child hearsay exception permitted the admission of statements that a minor child made describing acts of abuse without requiring the minor child to be subject to cross-examination.¹⁷ This is the same constitutional concern that S.B. 607 currently raises.

The court in *Foot* emphasized, "Where testimonial statements are at issue, the only indicium of reliability sufficient to satisfy constitutional demands is the one the Constitution actually prescribes: confrontation."¹⁸ Accordingly, the Oklahoma Court of Criminal Appeals urged the Oklahoma Legislature to amend the child hearsay exception, which it did.¹⁹

Now, the child hearsay exception permits the admission of statements that a minor child made describing acts of abuse without requiring the minor child to be subject to cross-examination

in pre and posttrial proceedings only. Conversely, the minor child's statement is admissible at trial if and only if 1) the minor child personally testifies at trial or 2) the minor child is unavailable to testify at trial, and the defendant had a prior opportunity for cross-examination. Further, the same statement is admissible if it is nontestimonial in nature.

By conditioning admission on the character of the statement (*i.e.*, whether the statement is testimonial) and on the stage of the prosecution in which the statement is sought to be admitted, the child hearsay exception now meets the requirements *Crawford* imposes. Because S.B. 607 does not condition admission on the character of the victim's statement nor on the stage of the prosecution in which the statement is sought to be admitted, S.B. 607 does not meet the requirements *Crawford* imposes and is, thus, at risk of failing constitutional muster if challenged.

S.B. 607 may reflect the Legislature's effort to "strike a balance between fairness for the defendant and the victim witness" to ultimately "reduce barriers" for the latter.²⁰ But a balance is not struck if the reduction of barriers for the victim witness costs the defendant their constitutional right to confrontation.²¹ Though the Legislature seems to think such a balance is struck through S.B. 607 as codified, which is clear cause for concern.

Due Process

The second constitutional concern S.B. 607 raises is that it undermines due process. Due process requires criminal prosecutions to be fundamentally fair. S.B. 607 subverts this requirement by mandating admission of certain

out-of-court statements at critical stages of criminal and juvenile delinquent domestic abuse prosecutions while simultaneously denying the defendant a fair, meaningful opportunity to challenge said statements.

S.B. 607's mandated admission (through the Legislature's use of the word "shall") of certain out-of-court statements deprives courts of their discretion to exclude statements that may be unreliable, uncorroborated or contradictory to other evidence. This mandate further denies the defendant a fair, meaningful opportunity to challenge the domestic abuse allegations against them, especially given that S.B. 607 mandates admission of any statement that merely *purports* to describe an incident of domestic abuse. This language imposes an exceptionally low threshold for admissibility and thus raises a constitutional concern.

Burden of Proof

The third constitutional concern S.B. 607 raises is that it blurs the burden for proving domestic abuse, which may lead to improper or inconsistent application of both the statute and the correct burden of proof.

S.B. 607 is codified in Title 12, which governs civil procedure,²² and incorporates a definition of domestic abuse codified in Title 22, which governs criminal procedure.²³ This definition of domestic abuse is incorporated in other statutes. The overwhelming majority of those statutes regard either criminal law or criminal procedure, and only a couple of statutes regarding family and domestic matters incorporate this definition of domestic abuse.²⁴ Though case law seems to suggest this definition of domestic

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abuse nevertheless applies in family and domestic matters too.²⁵

Even so, it is reasonable to assume that S.B. 607's civil codification and incorporation of a criminal definition of domestic abuse may lead some practitioners astray when applying S.B. 607 and the correct burden of proof, especially in family and domestic matters.²⁶ This assumption is further supported by the fact that on multiple occasions, the Oklahoma Court of Civil Appeals (COCA) has thought it necessary to clarify the nature and character of the Protection from Domestic Abuse Act, the act from which S.B. 607 incorporates the definition of domestic abuse and the evidentiary standard applicable to protective order matters.²⁷

COCA has made it clear that the applicant in a protective order matter need not prove their domestic abuse allegation(s) beyond a reasonable doubt nor by clear and convincing evidence. It follows then that the applicant in such a matter needs only to prove their domestic abuse allegation(s) by a preponderance of the evidence. First, in *Marquette*, COCA rejected an argument that the Protection from Domestic Abuse Act is criminal because it is codified in the title governing criminal procedure.²⁸ In rejecting this argument, COCA declined to extend criminal protections, namely that the appellee had to prove her domestic abuse allegation(s) beyond a reasonable doubt, to the appellant.²⁹ Further, COCA specifically found that a protective order, "the remedy provided [by the Protection from Domestic Abuse Act] is civil, not criminal, in nature."³⁰ Then, in *O'Brien v. Berry*, COCA found that "nothing in the Protection from Domestic Abuse Act, or in any case interpreting

the Act," imposes the clear and convincing burden of proof on the protective order applicant.³¹

Since the protective order applicant need only prove their domestic abuse allegation by a preponderance of the evidence, why should the same allegation be automatically admissible against the defendant in their domestic abuse prosecution, which requires the state to prove the very same allegation beyond a reasonable doubt? Essentially, the applicant has already done the prosecution's job for it.

The domestic abuse allegation in a protective order matter should not be automatically admissible against the defendant in their domestic abuse prosecution because the burden for proving domestic abuse becomes blurred. S.B. 607, as codified, undergirds this blurring, which may lead to improper or inconsistent application of both the statute and the correct burden of proof. Improper or inconsistent application of either alone would give cause for concern, so improper or inconsistent application of *both* is greatly concerning.

Recourse (or Lack Thereof)

The fourth and final constitutional concern S.B. 607 raises is that it lacks recourse for the defendant, especially when protective orders are dismissed or denied or are used in family and domestic matters for any purpose other than their intended purpose.

Our courts have construed the purpose of the Protection from Domestic Abuse Act and the purpose of protective orders.³² The Protection from Domestic Abuse Act's purpose is "preventative,"³³ and "to effectuate [this] purpose, the Act provides for court[s] to issue civil protection orders to

prevent violence before it happens."³⁴ The Oklahoma Supreme Court has explicitly admonished that the Protection from Domestic Abuse Act, and a protective order issued under it, "should [never] ... be used to harass or for [any] other reason than its intended purpose."³⁵

When protective orders are used in family and domestic matters for their intended purpose, they "are a way for a paper trail to exist to show the court the history of abuse" between the parties.³⁶ But the unfortunate reality is that protective orders are frequently misused in family and domestic matters, and a fair number are dismissed before hearing, denied by the court or incorporated into the dissolution proceeding. The consequences of such misuse cannot be overstated. Indeed, "a vindictive or an unwarranted issuance of a protective order can have irreversible consequences for a defendant."³⁷ And no consequence is as devastating as the wrongful denial of a parent's rightful access to their minor child(ren).

This wrongful denial is often effectuated through 43 O.S. §109.3, which provides, "In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of domestic abuse." This statute further provides:

If the occurrence of domestic abuse ... is established by a preponderance of the evidence, there shall be a rebuttable presumption that it is not in the best interest of the child to have custody, guardianship, or unsupervised visitation granted to the person against whom domestic abuse ... has been established.³⁸



In addition, 43 O.S. §109 provides that the person who is found to have committed domestic abuse is responsible for reasonable attorney's fees incurred by the victim, which do not have to be limited to the proof of domestic abuse.³⁹ Recall that a protective order applicant need only prove their domestic abuse allegation(s) by a preponderance of the evidence.⁴⁰ If the applicant does so, the protective order can then be used to deny the defendant custody of or unsupervised visitation with their minor child(ren) because the Protection from Domestic Abuse Act specifically provides that "child visitation orders may be temporarily suspended or modified" by a protective order issued under the act.⁴¹ Though importantly, the court granting the protective order must "maintain the integrity of a divorce decree or temporary order" when suspending or modifying a visitation schedule.⁴²

But unlike the Protection from Domestic Abuse Act, which provides for criminal penalties for misuse of protection orders in

family and domestic matters, S.B. 607 lacks recourse for the defendant in the matters themselves.⁴³ Put simply, a vindictive spouse or ex-spouse could fabricate domestic abuse allegations or make said allegations in bad faith or out of retaliation, plead these allegations in a protective order, then weaponize said protective order to deny their spouse or ex-spouse custody of or unsupervised visitation with the parties' minor child(ren). Under S.B. 607, the defendant has no recourse in the family and domestic matter except to dispute the allegations before any conviction of domestic abuse. Even without a conviction, a deferred sentence – which may be entered into by the defendants to avoid the risk of more serious consequences and is not technically a conviction – may be problematic in a domestic relations action because of the perception that the alleged abuser must have done something if there is a plea entered for a deferred sentence. Outside the realm of family and domestic matters, there is no resource for the defendant in the criminal or juvenile delinquent

domestic abuse prosecution, either. With how S.B. 607 is to be codified, a victim could recant their domestic abuse allegation or not appear for a hearing, resulting in dismissal, and the prosecution could, nevertheless, proceed with using the allegation against the defendant. Under the statute, there is nothing the defendant can do about this. The defendant's only recourse then is to call the victim, who may have other motives to maintain the allegation, including wrongfully denying the other parent rightful access to the parties' minor child(ren), as a witness.

The fact that S.B. 607 lacks recourse for the defendant should greatly concern all practitioners – especially those who practice family and domestic matters.

CONCLUSION

In May 2025, the Oklahoma Legislature quietly enacted S.B. 607, to be codified at 12 O.S. §2803.3. This enactment was the Legislature's response to the state's record-breaking domestic violence homicide rates in 2023 and to the Oklahoma Domestic Violence Fatality Review Board's recommendation to enact a domestic abuse-specific hearsay exception.

S.B. 607 mandates the admissibility of certain victim statements made shortly after an incident of domestic abuse, including statements made to law enforcement officers, statements made on an application for a protective order and testimony made at a hearing on an application for a protective order. While S.B. 607 makes it easier for the prosecution to admit a victim's statement(s) regarding domestic abuse in certain stages of the proceeding, S.B. 607 also walks a constitutional tightrope

with a razor-thin margin for error. Specifically, S.B. 607 raises four constitutional concerns: 1) It runs afoul of the Sixth Amendment's confrontation clause, 2) it undermines due process, 3) it blurs the burden for proving domestic abuse, and 4) it lacks recourse for the defendant, especially when protective orders are used in family and domestic matters for any purpose other than their intended purpose. S.B. 607 may remain unworkable until these constitutional concerns are addressed.

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ENDNOTES

1. Jordan Fremstad, "Oklahoma Sees Record Domestic Violence Homicides, YWCA Remains Optimistic About Policy Changes," News 9 (Feb. 20, 2025), <https://bit.ly/3Z31QnD> [<https://perma.cc/42BJ-EEGP>]; Okla. Domestic Violence Fatality Review Bd., 2024 Annual Report 18, 20 (2025); *see also* Alyse Jones, "OCPD Reports 5 Domestic Violence Homicides in 2025, Highlighting Statewide Problem," KOCO 5 News (July 31, 2025), <https://bit.ly/4jxqwhG> [<https://perma.cc/2BQ9-4J87>].
2. Okla. Stat. tit. 12, §2803.3 (2025).
3. See Okla. Const. art. VI, §11 (stating if a bill is not returned by the governor in five days, it shall become a law as if the governor had signed it).
4. Okla. Stat. tit. 12, §2803.3 (2025) (emphasis added).
5. *Id.*; *see also* Okla. Stat. tit. 22, §60.1(2) (2024) (emphasis added).
6. See *Curry v. Streater*, 2009 OK 5, ¶¶9, 21, 213 P.3d 550, 554-55, 557 (reversing the trial court's issuance of a protective order because "there was no evidence of an act of physical harm").
7. *E.g., BS&B Safety Systems, LLC v. Edgerton*, 2023 OK 89, ¶3, 535 P.3d 1283, 1284.
8. See *Toch, LLC v. City of Tulsa*, 2020 OK 81, ¶25, 474 P.3d 859, 867.
9. Statements applicable in S.B. 607 would still be hearsay in family and domestic matters. *See infra* notes 29-33.
10. See Okla. Stat. tit. 43, §§109.3, 112.2(A)(4), (7), (B)(4), (7).
11. The Oklahoma Domestic Violence Fatality Review Board's (DVFRB) annual report for 2024 recommended a hearsay exception for domestic abuse. The DVFRB recommendation is somewhat dissimilar from what was ultimately enacted as S.B. 607. The DVFRB explicitly mentioned hearsay that falls within an exception like S.B. 607 may still be inadmissible if it violates the confrontation clause. A domestic abuse victim must usually testify, and the DVFRB's proposed language circumvented the confrontation clause issue by making it so a victim only has to testify once. Okla. Domestic Violence Fatality Review Bd., 2024 Annual Report 18, 20 (2025) <https://bit.ly/4qcf2CC>.
12. U.S. Const. amend. VI.
13. *Crawford v. Washington*, 541 U.S. 36, 53-54 (2004).
14. *Davis v. Washington*, 547 U.S. 813, 822 (2006).
15. *Id.*
16. 2023 OK CR 12, ¶15, 533 P.3d 354, 360.
17. *Id.*
18. *Id.* (citing *Crawford v. Washington*, 541 U.S. 36, 68-69 (2004)).
19. *Id.*
20. DVFRB Annual Report *supra* note 11 at 18.
21. *Id.* at 17 ("[A] defendant's right to confrontation must be upheld.").
22. Okla. Stat. tit. 12, §1.
23. Okla. Stat. tit. 22, §60.1.
24. See Okla. Stat. tit. 43, §§109.3, 112.2(E)(2).
25. *See Brown v. Brown*, 1993 OK CIV APP 142, 867 P.2d 477; *Smith v. Smith*, 1998 OK CIV APP 71, 963 P.2d 24.
26. See *Kite v. Culbertson*, 2025 OK 3, ¶15, 565 P.3d 38, 43 (holding the clear purpose of the Protection Against Domestic Violence Act is preventative and provides immediate civil relief for victims protected by its provisions).
27. *See, e.g., Marquette v. Marquette*, 1984 OK CIV APP 25, 686 P.2d 990; *O'Brien v. Berry*, 2016 OK CIV APP 28, 370 P.3d 836.
28. 1984 OK CIV APP 25, ¶¶7, 10-11, 686 P.2d 990, 993-94.
29. *Id.*
30. *Id.* at ¶10.
31. 2016 OK CIV APP 28, ¶9, 370 P.3d 836, 839.
32. *See, e.g., Kite v. Culbertson*, 2025 OK 3, 565 P.3d 38; *Murlin v. Pearman*, 2016 OK 47, 371 P.3d 1094; *Curry v. Streater*, 2009 OK 5, 213 P.3d 550.
33. *Kite v. Culbertson*, 2025 OK 3, ¶15, 565 P.3d 38, 43 (citing *Murlin v. Pearman*, 2016 OK 47, ¶27, 371 P.3d 1094); *see also Curry v. Streater*, 2009 OK 5, ¶10, 213 P.3d 550, 555.
34. *Id.* (citing *Curry v. Streater*, 2009 OK 5, ¶10, 213 P.3d 550, 555) (emphasis added).
35. *Id.* (citing *Murlin v. Pearman*, 2016 OK 47, ¶27, 371 P.3d 1094, 1099).
36. Alyse Jones, "OCPD Reports 5 Domestic Violence Homicides in 2025, Highlighting Statewide Problem," KOCO 5 News (July 31, 2025), <https://bit.ly/3Yv3SNI>.
37. *Kite v. Culbertson*, 2025 OK 3, ¶15, 565 P.3d 38, 43 (internal citations omitted).
38. Okla. Stat. tit. 43, §109.3; *see also* Okla. Stat. tit. 43, §109A ("In awarding the custody of a minor ... the court shall consider what appears to be in the best interests of the physical and mental and moral welfare of the child").
39. *In re Walters*, 2025 OK CIV APP 3, ¶¶20-27, 564 P.3d 914, 923-26.
40. See *supra* notes 25-33 and accompanying text.
41. Okla. Stat. tit. 22, §60.4(I)(1).
42. *Id.* at §60.4(I)(2).
43. *Id.* at §60.4(H)(1) ("It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action.").

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Habilitation, Not Just Rehabilitation: A New Approach to Justice for Male Offenders

By David C. Phillips III, Dr. F. Daniel Duffy and Lindy Myers

SUCCESSFUL JUSTICE REFORM REQUIRES MORE THAN TWEAKING TRADITIONAL rehabilitation. For many young, justice-involved males, the challenge is not regaining lost virtues or good behaviors but building virtuous skills and habits they never developed. This article makes a persuasive case for habilitation services (developing knowledge, skills and values not yet learned) over purely rehabilitation ones (restoring misdirected knowledge, skills or values). The rehabilitation model works well for middle-aged adults who have successful lives cut down by the disease of addiction or the healthy person healing from a devastating accident. We have become convinced that it does not apply broadly to prison diversion programs, especially for young criminals. By examining the 1st Step Male Diversion Program in Tulsa (1st Step) as a case study, we will illustrate how a habilitation approach can transform lives, speed desistance from crime, reduce recidivism and deliver strong returns on investment for communities and funders.¹

REHABILITATION VS. HABILITATION: KEY DIFFERENCES

Rehabilitation traditionally means restoring someone to a previous, healthier state. In criminal justice, it assumes the offender once led a constructive life, experienced a crime-attracting event and only needed to return to their good life. However, this notion often does not apply to juvenile and young adult offenders who

have never demonstrated a prosocial entry into adulthood. As Peter C. Kratcoski notes, "Many offenders never experience anything in their lives resembling satisfactory adjustment, and such persons are candidates for 'habilitation' rather than rehabilitation."² In other words, there may be no prior positive condition to "restore."³

Habilitation, by contrast, takes a developmental approach by helping individuals develop fundamental

life skills and prosocial behaviors for the first time. It means fostering "familiarity with and adjustment to normal society" and helping them adopt values and habitual skills aligned with community norms and laws. Rather than assuming a base of life skills, habilitation programs begin by looking for the missed developmental milestones that resulted in a young person's antisocial attitudes, values and

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behaviors. This means adopting an educational and developmental philosophy, teaching missed education, providing positive parenting experiences to repair dysfunctional family experiences, equipping career skills when unemployment has been the rule and, when ill with substance use disorder or mental illness, providing evidence-based treatment. This approach builds on the understanding of almost limitless neuroplasticity in a brain's capability to learn, change and become culturally virtuous members of society. Habilitation provides the developmental learning missed during childhood and adolescence. In practice, rehabilitative services include education, vocational training, cognitive behavioral therapy (CBT), mentoring, family-like residential prosocial living and other support services to help

the client acquire capabilities and habits not previously developed.⁴

CONCEPTUAL AND PRACTICAL IMPACT

A rehabilitative approach might teach an offender job skills or provide therapy, assuming the client will return to being the law-abiding citizen they once were. This model works well for the once successful adult who acquires alcoholism or other substance abuse, and their lives become unmanageable. A habilitation approach recognizes that many juvenile or young adult offenders failed to develop basic life skills and learn from socially mature peers or adult role models. Habilitation retraces childhood and adolescent learning and prosocial behavior to build a foundation for adult success. Psychologists emphasize that for juvenile and young adult

offenders to make lasting change, "habilitation, not rehabilitation, is essential." Fortunately, the young brains of these offenders have sufficient neuroplasticity to supplant dysfunctional, deeply rooted thinking patterns with ones based on the values of a flourishing life. Habilitating experiences in a diversion program provide the social interactions that induce the neuronal growth in the brain to produce the mental control needed for them to think, feel and act as socially mature adults.⁵

WHY YOUNG OFFENDERS NEED HABILITATIVE DIVERSION

Justice-involved juvenile and young adult men, especially those caught in the "school-to-prison pipeline," often come from environments that failed to teach them the cultural skills, rules and

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values that lead to a prosocial and flourishing adult life. Moreover, the younger the offender, the more likely their brain has enough neuroplasticity to mold in structure and function to think, feel and act within a culture for a successful life. On the other hand, “career criminals” are generally older individuals who have engaged in antisocial behavior for most of their lives; their brains have been shaped by the knowledge, attitude and actions of the correctional incarceration and the criminal justice culture, not the highly functional culture of flourishing adults. Having passed beyond the age of maximum brain neuroplasticity, these offenders find it more difficult to respond to habilitation strategies.⁶

Many juvenile and young adult offenders grew up in poverty or experienced childhood traumatic events or absent parental guidance. For example, in 1st Step, 70% of participants grew up without a father in their lives. Lacking positive male role models or stable support, these men never acquired the critical skills of emotional regulation, healthy decision-making or readiness for employment. As one participant candidly admitted before intervention, “I don’t care what you say. I’m going to sell drugs for the rest of my life. That is what I do, and it’s all I know how to do.” This stark statement underscores that crime was the only “skill” he had ever learned, a clear call for habilitation over rehabilitation.⁷

Habilitation diversion programs aim to break this cycle of learning a secure antisocial or criminal career by helping offenders develop the brain pathways that form the decision-making skills, values and habits for a productive prosocial life. Rather than sending



a young man to prison, where his brain becomes programmed to a criminal livelihood, diversion to a habilitation program repairs the parenting, schooling, childhood and adolescent development he missed. Moreover, it keeps him in the community under structured support. He can learn job skills, complete his education and recover from addiction or trauma. He can develop the values and virtues of honesty, loyalty and responsibility while demonstrating accountability for his changing trajectory in life. Crucially, this approach treats the root causes of criminal behavior, such as failed life stage development, becoming addicted to substances or adopting nonvirtuous ideas and attitudes.

Research has shown that simply punishing or incarcerating individuals without helping to shape the neuronal connections for flourishing and virtuous socialization yields poor results. On the other hand, programs that provide a virtuous social environment with appreciation and guidance to achieve positive adult goals build

competencies and life choices that significantly reduce recidivism rates. In short, habilitation corrects deficits in thinking, feeling and acting that often underlie a person’s unlawful deeds and prevents them from becoming a career criminal.⁸

From a funder’s perspective, the focus on root causes of criminal behavior means a smarter investment. Every dollar spent on habilitation can save many more dollars down the line by averting future crimes and costly incarcerations. It costs taxpayers considerably less to employ the internal motivating forces in the developing brains of a misguided young man than to imprison him for years. In Oklahoma, for instance, over 13,000 people are incarcerated for nonviolent offenses, one of the highest rates in the nation. Programs that divert even a fraction of these individuals away from incarceration and toward productive lives yield substantial social and economic returns. By keeping families whole and turning would-be career criminals into tax-paying citizens,

habilitation-driven diversion creates a positive ripple effect that benefits public safety, the economy and community well-being.⁹

CASE STUDY: THE 1ST STEP MALE DIVERSION PROGRAM¹

One example of habilitation in action is 1st Step in Tulsa. Founded in 2016 by local justice leaders (two public defenders and a judge), it aims to stop the school-to-prison pipeline for young men through a formal program offering developmental guidance and opportunities needed to successfully enter emerging adulthood. 1st Step targets 18 to 30-year-old nonviolent male offenders with a high risk of reoffending and a need for habilitation skills. Eligible participants are court-diverted from incarceration into this intensive program under the supervision of a Tulsa County felony judge and professional staff. The mission is simple yet profound: "Keeping young men from prison by helping them build better lives."¹⁰

Program Goals

The overarching goal is to break the cycle of recidivism by achieving the developmental tasks missed in childhood and adolescence that contributed to these men's offenses. It explicitly seeks to "stop the school to prison pipeline in Oklahoma for young men by providing necessary survival skills and services, facilitating the need for career opportunities and instilling positive behavior change for lifetime success." Rather than condemning young offenders to a life of shame, exclusion and labels of second-class status, the program believes in giving them the tools to become productive, law-abiding members of society. In the words of its founder, David

Phillips, the aim is that graduates "will be tax-paying, sober, independent young men supporting their families." This vision resonates strongly with funders' interests: It speaks to economic self-sufficiency, family stability and public safety.¹¹

Program Structure

The program is an 18 to 24-month, highly structured four-phase program. Participants live in a drug- and crime-free supervised residence. They must remain drug-free (verified by frequent random urine testing) over the entire program. They wear GPS ankle monitors to ensure avoidance of contact with criminal or addicted friends or family. In order to progress through higher phases, they must meet measurable milestones and demonstrate behavioral skills to program staff.¹²

Phase I: Stabilization. Focus on achieving a stable, scheduled, sober and crime-free living environment. Young men learn to avoid relapse into substance use or criminal behavior by identifying triggers and developing healthy coping skills. They learn that addiction and criminal thinking are dysfunctions of the brain that can be interrupted. During this phase, they may not work or drive. Their full attention is on recovery treatment and establishing a routine in a healthy living environment. Participants begin moral reconnection therapy (MRT) using the *How to Escape Your Prison* curriculum to develop moral decision-making skills, emotional intelligence and plans for a flourishing life. Each week, they have one to two individual counseling sessions and several group process sessions. They engage in peer recovery classes and attend at least two 12-step or

other community support group meetings to develop a virtuous approach to life. Although their schedules are full, they are encouraged to use their free time for personal self-improvement, socializing through sports and games and improving their physical conditioning by working out.

Phase II: Engagement. When they have completed the stability milestone, the men move to demonstrating personal responsibility for their actions with more freedom and opportunities to make better choices. They may obtain part-time employment and begin to drive if they have a valid license. If they need a license, they will learn to drive and obtain one. Those without a high school diploma enroll in GED courses with support for improving study habits and encouragement in completing the courses. Cognitive behavioral therapy, group processing and community support sessions continue.

Phase III: Maintenance. After completing the milestones for phase II, men begin to focus on demonstrating basic life skills, communication skills and emotional intelligence, parenting skills and sustained recovery from substance abuse and criminal behavior. They work on reunification with children and family, begin to implement the life goals planned in MRT and practice the spiritual principles for sustained recovery of forgiveness and making amends. Using a trauma-informed curriculum, participants delve deeper into the origin of their emotional dysfunction and develop skills for emotional coping, handling setbacks and understanding the triggers for unethical and criminal behavior or submitting to cravings for substances or

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addictive behaviors. During phase III, each young man is expected to maintain full-time employment, full-time school enrollment or part-time school and work. He will start moving toward independent living by transitioning out of the program house and paying his own rent. Regular counseling and support groups continue, alongside random drug tests to facilitate the maintenance of sobriety.

Phase IV: Transition. Focus on independent living and becoming a prosocial member of the community, espousing the culture for a flourishing life. In this final phase, participants solidify their life skills for independent, financially stable, sober and crime-free living. To successfully graduate, participants must demonstrate at least 90 days of stable independent living and full-time, living-wage employment. Weekly check-ins with their case managers and individual therapy sessions continue. Once staff and the supervising judge determine the young man has met all program requirements, he "has earned the right to graduate and rejoin society as a better husband, father, citizen, and man."¹³

Throughout all phases, 1st Step provides a wraparound, holistic support system. Core services include individual and group cognitive behavioral therapy, substance abuse treatment, life skills classes (e.g., financial literacy, parenting and nutrition), education support and job training/placement.

Importantly, no violent or sexual offenders are admitted, ensuring the program's community-based housing remains safe and focused on habilitation for nonviolent offenders with a high risk of recidivism and high life skills needs. By the end of the program, these men

have not only begun their lifelong recovery from addiction and criminal thinking and behavior, but they have also typically earned a diploma or trade certification, secured employment, repaired relationships with family and became responsible fathers and citizens.¹⁴

CASE STUDY: OVERCOMING ADDICTION AND REBUILDING FAMILY

Background

One participant, a 24-year-old man, entered the 1st Step program following incarceration related to trafficking methamphetamine. Prior to his arrest, much of his life had been spent surviving on the streets, where selling drugs seemed like the only way forward. Having grown up without a father, he never learned what it meant to be one himself. Upon entering the program, he was separated from his young son and was uncertain about his future. Initially resistant to the structure and expectations of 1st Step, he seriously considered leaving shortly after release.

Intervention

Despite his hesitation, the participant remained in the 1st Step sober living environment and began to fully engage in habilitative programming. Through intensive counseling, group therapy and vocational readiness activities, he gradually confronted the root causes of his substance use and criminal behavior. He later reflected that the program not only gave him the tools to rebuild his own life but also restored him to his family: "1st Step gave my mother her son back, my grandparents their grandson back, and my children their father."

Outcomes

During his time in the program, the participant secured stable employment with a local manufacturing company, where he has remained for four years. He reestablished a relationship with his biological son, regained custody and demonstrated a renewed commitment to fatherhood. While still enrolled, he married and created a supportive family environment, later adopting his wife's daughter and forming a blended family. Since graduating in August 2021, he has maintained sobriety, housing and long-term employment. Beyond his personal achievements, he now also serves on the 1st Step program's Board of Directors and mentors younger men currently enrolled. His story exemplifies the goals of habilitation: long-term recovery, family stability, economic self-sufficiency and meaningful community leadership.¹⁵

EVIDENCE OF IMPACT AND EFFECTIVENESS

1st Step has compiled an impressive record demonstrating the power of its habilitation approach. Outcome metrics show that participants rarely return to crime. From 2017 to 2025, graduates had a 92% success rate, meaning that only 8% of graduates reoffended or returned to incarceration, while saving Oklahoma taxpayers more than an estimated \$3.3 million in incarceration costs. As of its eighth anniversary, the program roughly maintains the 92% success rate in keeping men out of prison. This is an extraordinary achievement in a state with historically high recidivism rates. Diverting these individuals from prison not only spares the public the direct costs of incarceration but also the indirect costs

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Throughout all phases, 1st Step provides a wraparound, holistic support system.

of future crimes and lost taxes from productive citizens.¹⁶

Beyond numbers, the human impact is compelling. Young men who once cycled through jails or struggled with addiction are now gainfully employed, present for their families and contributing to their communities. Over half of the participants become responsible family men, with 50% of current enrollees supporting a wife and children as they go through the program. This indicates the program's ripple effect in breaking intergenerational cycles of incarceration, criminality and addiction. Children who might have lost their fathers to prison are instead growing up with them at home. Participants themselves attest to the life-changing effects: "I have learned to live, not just survive," said one young father who went from addiction and crime to raising his daughter and holding a full-time job. Another graduate described it as "a blessing ... a great program to be in, as it has a lot of people who not only want to help but care for you and [help] you be a better person." Such testimonials speak to more than surface-level improvements; they indicate profound shifts in mindset and identity. Men who once saw themselves as becoming lifelong criminals now see themselves as providers,

mentors and productive citizens. As one program graduate reflected, "When you complete this program, you have more to lose than you've ever had in your whole entire life." This poignant statement highlights the core of habilitation – these men have built a life worth protecting, filled with responsibilities and hope, where before there was little to lose.¹⁷

It is also notable that it was modeled after a successful diversion program for women (Tulsa's Women in Recovery). It filled a critical gap for males. Each additional participant represents a potential life redirected from prison to productivity. For funders, scaling such a program means amplifying the impact: More families kept intact, younger people in the workforce and fewer future victims of crime.

Given the program's strong record of accomplishment, any investment in its expansion or replication is backed by evidence-based practices (e.g., cognitive behavioral therapy, peer support and vocational training are all proven recidivism reducers) and documented success.¹⁸

CONCLUSION: A CALL TO INVEST IN HABILITATIVE JUSTICE

The experience shows that habilitative approaches in diversion

programs can be transformative. When we treat young offenders not as lost causes to be punished but as individuals who, with guidance, can learn to thrive, the results are remarkable. They achieve what rehabilitation alone often cannot: a fundamental change in life's trajectory. The difference is clear. Rehabilitation might give an offender a toolbox, but habilitation teaches him how to build an entirely new house for his future life. For participants, this means the difference between a revolving door in and out of prison and a one-way exit toward stability and success.¹⁹

From a funder's perspective, supporting habilitation diversion programs is a high-impact investment. It yields measurable outcomes, like lower recidivism rates and cost savings, and immeasurable ones, like safer neighborhoods and brighter futures for families. Every success story, every young man who turns from crime to community, validates the approach and promises compounded benefits as he influences peers and future generations. By embracing habilitation in justice interventions, we shift resources from reacting to crime to preventing it through catching up on personal development. This proactive strategy not only changes lives one by one but also strengthens society as a whole.

In summary, the efficacy and importance of habilitation approaches cannot be overstated. 1st Step exemplifies how comprehensive support, accountability and skill-building can turn at-risk youth and emerging adults into productive citizens. It is a model that deserves expansion and replication. As stakeholders and funders, investing in these programs is an investment in safer

Statements or opinions expressed in the Oklahoma Bar Journal are those of the authors and do not necessarily reflect those of the Oklahoma Bar Association, its officers, Board of Governors, Board of Editors or staff.

communities and human potential. The message is clear: To truly break the cycle of crime, we must fund the building of new foundations and not just repair old walls. Habilitation offers that first step, one that can lead a young man, and those around him, toward a better tomorrow.²⁰

ABOUT THE AUTHORS



David C. Phillips III is the executive director and founder of the 1st Step Male Diversion Program, a nonprofit dedicated to keeping young men out of prison by helping them build stable, flourishing lives. He earned a bachelor's degree from the University of Pittsburgh and a J.D. from the OU College of Law.



Dr. F. Daniel Duffy is the clinical director for the 1st Step program. He is a retired physician professor of internal

medicine and medical informatics from the OU School of Community Medicine. In addition to advising staff on clinical care of clients, he facilitates moral reconation therapy and designed and teaches the program's parenting course. He has guided the implementation of the positive psychology and habilitation process for the program.



Lindy Myers, deputy chief director at 1st Step Male Diversion Program, is a licensed behavioral health case manager. She graduated with a bachelor's degree in business and minor in human resources and a master's degree in sociology. Ms. Myers' personal journey of overcoming addiction after graduating from Women in Recovery in 2020 fuels her passion for supporting program participants. At 1st Step, she emphasizes habilitation, guiding individuals in rebuilding their lives.

ENDNOTES

1. 1st Step Male Diversion Program. (n.d.). Program overview and outcomes. (Internal program documents and web profile).
2. P.C. Kratcoski, (2017), *Correctional Counseling and Treatment* (6th ed.), Springer International Publishing, p. 4.
3. P.C. Kratcoski, (2017), *Correctional Counseling and Treatment* (6th ed.), Springer International Publishing.
4. S.E. Samenow, (2016), *Psychology Today*, "Habilitation, Not Rehabilitation." <https://bit.ly/49nF2E6>.
5. *Id.*
6. 1st Step Male Diversion Program. (n.d.). Program overview and outcomes. (Internal program documents and web profile).
7. KJRH News (2023). "1st Step Male Diversion Program transforms lives of justice-involved men." Retrieved from www.kjrh.com.
8. P.C. Kratcoski, (2017), *Correctional Counseling and Treatment* (6th ed.), Springer International Publishing, and S.E. Samenow, *Psychology Today* (2016), "Habilitation, Not Rehabilitation."
9. 1st Step Male Diversion Program, (n.d.). Program overview and outcomes. (Internal program documents and web profile).
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*

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- Ann E. Murray, Oklahoma Bar Association Member

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NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

THE OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD OF DIRECTORS gives notice that it will entertain sealed Offers to Contract (“Offers”) to provide non-capital trial level defense representation during **Fiscal Year 2027** pursuant to 22 O.S. 2001, ‘1355.8. The Board invites Offers from attorneys interested in providing such legal services to indigent persons during Fiscal Year 2027 (July 1, 2026 through June 30, 2027) in the following counties: **100% of the Oklahoma Indigent Defense System caseloads in THE FOLLOWING COUNTIES:**

BRYAN / CADDO / CRAIG / NOWATA

Offer-to-Contract packets will contain the forms and instructions for submitting Offers for the Board’s consideration. Contracts awarded will cover the defense representation in the OIDS non-capital felony, juvenile, misdemeanor, traffic, youthful offender and wildlife cases in the above counties during FY-2027 (July 1, 2026 through June 30, 2027). Offers may be submitted for complete coverage (100%) of the open caseload in any one or more of the above counties. Sealed Offers will be accepted at the OIDS offices Monday through Friday, between 8:00 a.m. and 5:00 p.m.

The deadline for submitting sealed Offers is 5:00 PM, Thursday, March 19, 2026.

Each Offer must be submitted separately in a sealed envelope or box containing one (1) complete original Offer and two (2) complete copies. The sealed envelope or box must be clearly marked as follows:

FY-2027 OFFER TO CONTRACT	TIME RECEIVED:
_____ COUNTY / COUNTIES	DATE RECEIVED:

The Offeror shall clearly indicate the county or counties covered by the sealed Offer; however, the Offeror shall leave the areas for noting the time and date received blank. Sealed Offers may be delivered by hand, by mail or by courier. Offers sent via facsimile or in unmarked or unsealed envelopes will be rejected. Sealed Offers may be placed in a protective cover envelope (or box) and, if mailed, addressed to **OIDS, FY-2027 OFFER TO CONTRACT, 111 North Peters, Suite 100, Norman, OK 73069**. Sealed Offers delivered by hand or courier may likewise be placed in a protective cover envelope (or box) and delivered during the above-stated hours to OIDS, at **111 North Peters, Suite 100, Norman, OK 73069**. Protective cover envelopes (or boxes) are recommended for sealed Offers that are mailed to avoid damage to the sealed Offer envelope. **ALL OFFERS, INCLUDING THOSE SENT BY MAIL, MUST BE PHYSICALLY RECEIVED BY OIDS NO LATER THAN 5:00 PM, THURSDAY, March 19, 2026 TO BE CONSIDERED TIMELY SUBMITTED.**

Sealed Offers will be opened at the OIDS Norman Offices on Friday, March 20, 2026, beginning at 10:00 AM, and reviewed by the Executive Director or his designee for conformity with the instructions and statutory qualifications set forth in this notice. Non-conforming Offers will be rejected on Friday, March 20, 2026, with notification forwarded to the Offeror. Each rejected Offer shall be maintained by OIDS with a copy of the rejection statement.

NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

Copies of qualified Offers will be presented for the Board's consideration at its meeting on **Friday, March 27, 2026**, at *a place to be announced*.

With each Offer, the attorney must include a résumé and affirm under oath his or her compliance with the following statutory qualifications: presently a member in good standing of the Oklahoma Bar Association; the existence of, or eligibility for, professional liability insurance during the term of the contract; and affirmation of the accuracy of the information provided regarding other factors to be considered by the Board. These factors, as addressed in the provided forms, will include an agreement to maintain or obtain professional liability insurance coverage; level of prior representation experience, including experience in criminal and juvenile delinquency proceedings; location of offices; staff size; number of independent and affiliated attorneys involved in the Offer; professional affiliations; familiarity with substantive and procedural law; willingness to pursue continuing legal education focused on criminal defense representation, including any training required by OIDS or state statute; willingness to place such restrictions on one's law practice outside the contract as are reasonable and necessary to perform the required contract services, and other relevant information provided by attorney in the Offer.

The Board may accept or reject any or all Offers submitted, make counteroffers, and/or provide for representation in any manner permitted by the Indigent Defense Act to meet the State's obligation to indigent criminal defendants entitled to the appointment of competent counsel.

FY-2027 Offer-to-Contract packets may be requested by facsimile, by mail, or in person, using the form below. Offer-to-Contract packets will include a copy of this Notice, required forms, a checklist, sample contract, and OIDS appointment statistics for FY-2022, FY-2023, FY-2024, FY-2025 and FY-2026 together with a 5-year contract history for each county listed above. The request form below may be mailed to **OIDS OFFER-TO-CONTRACT PACKET REQUEST, 111 North Peters, Suite 100, Norman, OK 73069, emailed to brandon.pointer@oids.ok.gov or submitted by facsimile to OIDS at (405) 801-2661.**

REQUEST FOR OIDS FY-2027 OFFER-TO-CONTRACT PACKET

Name _____ OBA # _____

Street Address _____ Phone _____

City, State, Zip _____ Fax _____

County / Counties of Interest _____

2026 OBA Officers and New Board Members Take Oaths

ON FRIDAY, JAN. 16, NEW OBA officers and board members took their oaths of office, administered by Oklahoma Supreme Court Chief Justice Dustin P. Rowe. The swearing-in was held at the Supreme Court Courtroom at the state Capitol.

Officers sworn in were:

- President Amber Peckio, Tulsa
- President-Elect Jana L. Knott, El Reno
- Vice President S. Shea Bracken, Edmond

Also taking oaths as members of the OBA Board of Governors were:

- Immediate Past President D. Kenyon Williams Jr., Sperry (one-year term)
- Chris D. Jones, Durant, District 2 (three-year term)
- Blayne P. Norman, Wewoka, District 8 (three-year term)
- Kristy E. Loyall, El Reno, District 9 (three-year term)
- Molly A. Aspan, Tulsa, Member at Large (three-year term)
- Alexandra J. "Allie" Gage, Tulsa, Young Lawyers Division Chair (one-year term)

OBA leadership roles are voluntary positions in which lawyers serve while continuing to practice law.



President Peckio receives her presidential pin.



Chief Justice Dustin P. Rowe administers the oath of office to 2026 OBA President Amber Peckio.



President Peckio addresses the Supreme Court justices, discussing the OBA's plans for the upcoming year.



Above: Chief Justice Rowe (second from left) addresses the new OBA officers and board members.

Right: From left Allie J. Gage, Chris D. Jones, Kristy E. Loyall, Molly A. Aspan, Blayne P. Norman, Immediate Past President D. Kenyon Williams Jr. and Vice President S. Shea Bracken take the oath of office.





Left: President-Elect Jana L. Knott takes her oath.

Below: New board members and officers following the swearing-in ceremony. From left (front row) Chris D. Jones, Allie J. Gage, President Amber Peckio, Kristy E. Loyall, (back row) Immediate Past President D. Kenyon Williams Jr., Molly A. Aspan, Vice President S. Shea Bracken, President-Elect Jana L. Knott and Blayne P. Norman.



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Ninth OBA Leadership Academy Class Gets Underway

By Gigi McCormick

CULTIVATING EMERGING leaders is critical to the future of our association and our state. To support bar members as they develop the skills and networks necessary to embrace opportunities to serve, the Oklahoma Bar Association's Leadership Academy kicked off its ninth cohort with members convening for the first time on Jan. 15. Over the coming year, participants will build the skills and networks needed to take on leadership roles within the bar and in their communities.

Chosen for their commitment to the profession and community service, the 16 participants were selected to join a program that was a product of the OBA's 2007 Leadership Conference. The curriculum covers OBA governance, considerations for attorneys in public service and practical training in networking and communication. By the end of this year, these lawyers will be better prepared to assume leadership roles and more effectively contribute to their profession, communities and service organizations.

Selected for the ninth class of the OBA Leadership Academy were: Joel Auringer, Tulsa; Mackenzie Kennedy, Tulsa; Matt Kiehn, Oklahoma City; Katie Linhardt, Nichols Hills; Hilda Loury, Oklahoma City;



OBA Director of Educational Programs Gigi McCormick leads the discussion during the class kickoff in January.

Maxfield Malone, Tulsa; Austin Manley, Yukon; Savannah Mendenhall, Tulsa; Josh Pumphrey, Shawnee; Alyssa Sloan, Oklahoma City; Morgan Smith, Oklahoma City; Elizabeth Stevens, Norman; Alexandra Walsh (King), Tulsa; Bailey Malone Warren, Norman; Mitchell Wells, Tulsa; and Afiya Wilkins, Oklahoma City.

OBA Executive Director Janet Johnson welcomed the cohort to its opening session. After learning

about OBA governance, the group enjoyed an evening at Dust Bowl Lanes & Lounge in Oklahoma City. The group also attended the swearing-in ceremony for new OBA officers and 2026 Board of Governors members.

The class will meet every two months throughout 2026 and will celebrate graduation in November.

Ms. McCormick is the OBA Director of Educational Programs.



The ninth class of the OBA Leadership Academy gathers for the first time on Jan. 15. From left, participants are (front row) Morgan Smith, Savannah Mendenhall, Mackenzie Kennedy, Alexandra Walsh (King), Hilda Loury, (back row) Alyssa Sloan, Afya Wilkins, Austin Manley, Elizabeth Stevens, Maxfield Malone, Bailey Malone Warren, Matt Kiehn, Joel Auringer, Josh Pumphrey, Katie Lindhardt and Mitchell Wells.



Above: Members of the OBA Leadership Academy focus on association governance during their first cohort meeting. This year, they will also learn more about special considerations for attorneys in public service, networking skills and effective communication.

Left: Members of the OBA Leadership Academy celebrate the ninth-class kickoff with an evening of bowling and fun at Dustbowl Lanes & Lounge in Oklahoma City.



2026 DAY AT THE CAPITOL

SAVE THE DATE

Learn more about the legislative process, and speak with Oklahoma lawmakers on topics that impact your practice.

MARCH 10
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Oklahoma Bar Center





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Applicants for February 2026 Oklahoma Bar Exam

THE OKLAHOMA RULES OF PROFESSIONAL CONDUCT impose on each member of the bar the duty to aid in guarding against the admission of candidates unfit or unqualified because of deficiency in either moral character or education. To aid in that duty, the following is a list of applicants for the bar examination to be given Feb. 24-25.

The Board of Bar Examiners requests that members examine this list and bring to the board's attention in a signed letter any information that might influence the board in considering the moral character and fitness to practice of any applicant for admission. Send correspondence to Cary Pirrong, Administrative Director, Oklahoma Board of Bar Examiners, P.O. Box 53036, Oklahoma City, OK 73152.

EDMOND

Rehma Kamal Amil
Talla Anwar Khader
Jennifer NC Ly
Charles Luke Scroggins
Veronica Lee Tsai

NORMAN

Connor Andrew Sharp
Coty Skylar Goetzinger
Jeffery Brandon Bostick
John Cordes Kirchhoefer
Joshua Levi Emerson
Robert Quinn Rowell
Thomas Willis Taylor II
Alexandria Katlin Petre
Hope Riley Serfontein

OKLAHOMA CITY

Omed Hameed Alemadi
Kennedy Brooke Baker
Bryce Connor Boyd
Britnee Ashley Branch
Tanya Raydena Chiariello
Mckenzie Jewell Choate
Sarah Elizabeth Coughlon
Sarah Dominique Daquioag
Ryan Lewis Dixon
Toby Glen Fullbright
William Taft Gibbons IV

Leonardo Arturo Gonzalez-Romero
Kayla Marie Graves
Keely Elizabeth Janzen
Kory Lee Kile
Daniel Terah Eliakim Kines
Lisa Leigh Lopez
Victoria Angelic Lovato
Michelle Riley May
Luke Owen Mills
McKenna Riley Murphy Brooks
Melody Parra
Poonam Bhupendra Patel
John Allee Switzer
Piper Sydney Tully
Kayla Rose Unkelbach
Charles Otto Walker
Meghan Tze-Kwan Wan
Keith Dwayne Williams
Kiaralexis Wood
Noelle Lauren Yost

TULSA

Morgan Nicole Bandy
Madeline Mae Brady
Garrett Frederic Brede
She'era Chyenne Brunson
Kailey Marie Chapman
Danny Ray Daniels Jr.
Eugene John Flynn IV

Brian Steven Gattis
Sunshine Amanda Graham
Carlton George Hogan
Eric Raymond Hudkins
Yuji Ide
Steven Wade Jameson
Scott Killian Love
Jessica Maldonado
Skylar Rae Mills
Cindi Mariela Paredes
Sydney Jo Ross
Chancy Tye Schaaf
Jennifer Lyn Schooley
John Warren Seely
Ryan John Silva
Tristan Michael Sims
Dakota Ray Thomas
Layni Shiann Thompson
Chase Lee Weems
Jess Kinyon Wood

OTHER OKLAHOMA CITIES AND TOWNS

Adell Lloyd Barnes, Tahlequah
Patti Diane Buhl, Tahlequah
Mark William Burgess, Ardmore
Amaris Monet Buser, Owasso
Joseph Tali Byrd, Park Hill
Steven Chance Clinkenbeard,
Fort Gibson

Jasmine Lashon Dawkins, Yukon
Rhianna Cooper Fairchild,
Glenpool
Tiffany Danielle Frost, McLoud
Jocelyn Charlotte Germaine, Atoka
Justin Adam Hairston, Moore
Grace Elizabeth Holstein,
Broken Arrow
Jordan Mekhi Johnson, Idabel
John Travis Lee, Broken Arrow
Amelia Ann Martin, Bartlesville
Abygail Ryann Massey, Kingfisher
Michael Maurice Mays,
Broken Arrow
Jeffrey John Miller, Guthrie
Hattie Paige Morgan, Owasso
Analisa Morrison, Mustang
Brayden Lane Oglesby, Howe
Kayla Lanette Patten, Ponca City
Raluca Daniela Pavel, Ardmore
Timothy Shaun Penson,
Broken Arrow
Dalex Clay Potts, Moore
David Heath Richardson Jr., Jenks
Jacqueline Kay Ruhl, Claremore
Mary Ruth Rynaski, Granite
Braden Ryan-Leslie Scott,
Broken Arrow
Darren Allen Seward, Yukon
Jennifer Kellilyn Shipley,
Blanchard
Maranda Louise Surginer,
McAlester
Collin Andrew Swander,
Blanchard
Jami Lyn Treantafeles, Bixby
John Carnahan Webb, Yukon
McKensi Burks Webb, Hollis
Taryn Nicole Williams, Chickasha
Vol Colton Woods, Welling

OUT OF STATE

Steve Tenkamenin Awuyah
Addae, Bronx, NY
Waqas Ali, Karachi, Pakistan
Abigail Borunda, Dumas, TX
Truman Michael Burrage,
Cambridge, MA
Jordan Catherine Burrows,
Aubrey, TX
Patrick Kenneth Doell,
New Orleans, LA
Jennifer Redding Finley,
San Diego, CA
Micah Ryan Fontaine,
North Little Rock, AR
Delia Shelly Garcia, Dallas, TX
Kirsten Rebecca Houtz,
Lee's Summit, MO
Dallas Myrl Howell, Parks, AZ
Michael Edward Joseph Jr.,
Joplin, MO
Kiyoshi Cruz Juarez, Lakehills, TX
Fabian Dewyane Lee Jr.,
Fulshear, TX
Addie Marie Martin, Fort Smith, AR
Liz Pereira Mota, Denver, CO
Ellis Denzel Newkirk, Amarillo, TX
Amber Allison Davis Smith,
Brookshire, TX
Ericka Enchanique' Smith,
Missouri City, TX
William Bradford Stanford IV,
Murphy, TX
Tahj Anthony Walker, Mesquite, TX
Desiree Lauren Watkins,
Pearland, TX
Lindsay Welton, Austin, TX

Join an OBA Committee This Year!

AS WE LOOK AHEAD TO 2026, the Oklahoma Bar Association invites you to make a meaningful impact by joining one of our many volunteer committees. There's no better time than the present to connect, contribute and grow. Join your fellow lawyers in serving on an OBA committee to help shape the future of the legal profession.

With more than 20 active committees to choose from, different

opportunities and connections are waiting for you. Whatever your passion, there's a committee that needs your voice and perspective. This is your chance to get involved with the OBA, meet new lawyers and make a difference in your community.

From promoting access to justice and legal education to supporting lawyers facing personal challenges, OBA committees are making a difference. You'll also

build your professional network and work on meaningful projects that align with your values.

Ready to get involved? Look at the committee list and fill out the form at <https://bit.ly/3SjMzcE>. Appointments for 2026 will be made soon, so don't wait!

Amber Peckio
2026 OBA President



To sign up or for more information, visit www.okbar.org/committees/committee-sign-up.

Access to Justice

Works to increase public access to legal resources

Awards

Solicits nominations for and identifies selection of OBA Awards recipients

Bar Association Technology

Monitors bar center technology to ensure it meets each department's needs

Bar Center Facilities

Provides direction to the executive director regarding the bar center, grounds and facilities

Bench and Bar

Among other objectives, aims to foster good relations between the judiciary and all bar members

Civil Procedure and Evidence Code

Studies and makes recommendations on matters relating to civil procedure or the law of evidence

Disaster Response and Relief

Responds to and prepares bar members to assist with disaster victims' legal needs

Diversity

Identifies and fosters advances in diversity in the practice of law

Group Insurance

Reviews group and other insurance proposals for sponsorship

Law Day

Plans and coordinates all aspects of Oklahoma's Law Day celebration

Law Schools

Acts as liaison among law schools and the Supreme Court

Lawyers Helping Lawyers Assistance Program

Facilitates programs to assist lawyers in need of mental health services

Legal Internship

Liaisons with law schools and monitors and evaluates the legal internship program

Legislative Monitoring

Monitors legislative actions and reports on bills of interest to bar members

Membership Engagement

Facilitates communication and engagement initiatives to serve bar members

Midyear Meeting Planning

Plans and coordinates all aspects of the annual conference

Military Assistance

Facilitates programs to assist service members with legal needs

Professionalism

Among other objectives, promotes and fosters professionalism and civility of lawyers

Rules of Professional Conduct

Proposes amendments to the ORPC

Strategic Planning

Develops, revises, refines and updates the OBA's Long Range Plan and related studies



ONE ASSOCIATION MANY OPPORTUNITIES

JOIN AN OBA COMMITTEE TODAY!

Get more involved in the OBA, network with colleagues and work together for the betterment of our profession and our communities. More than 20 active committees offer you the chance to serve in a way that is meaningful for you.

Now is your opportunity to join other volunteer lawyers in making our association the best of its kind!



2025 OK 83
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re: Rules of the Supreme Court of the State of Oklahoma on Legal Internship)	S.C.B.D. No. 7904 FOR OFFICIAL PUBLICATION PUBLISH 3X OBJ
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ORDER

This matter comes on before this Court upon an Application to Amend Rules 2 and 6 and Regulation 7 of the Rules of the Supreme Court of the State of Oklahoma Licensed Legal Internship (hereinafter "Rules") filed on May 20, 2025. This Court finds that it has jurisdiction over this matter and Rules 2 and 6 and Regulation 7 is hereby amended as set forth in Exhibit a attached hereto, effective immediately.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 17TH DAY OF NOVEMBER, 2025.



CHIEF JUSTICE

Rowe, C.J., Winchester, Edmondson, Combs and Jett, JJ., concur;
Gurich, J., concurs in part; dissents in part;
Kuehn, V.C.J. (by separate writing), Darby and Kane, JJ., dissent.

To read the full rules and exhibits, visit <https://bit.ly/3KUWzv4> or scan the QR code.



2025 OK 92
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In Re: Rules of the Supreme Court for)
Mandatory Continuing Legal)
Education [Rule 7, Regulations 3.8) SCBD: 8012
and 4.1.8]) FOR OFFICIAL PUBLICATION
PUBLISH OBJ X 3

ORDER

This matter comes on before this Court upon an Application to Amend Rule 7, Regulations 3.8 and 4.1.8 of the Rules of the Supreme Court for Mandatory Continuing Legal Education (hereafter "Rules"), 5 O.S. ch. 1, app. 1-B as proposed and set out in "Exhibit A" attached hereto.

The Court finds that it has jurisdiction over this matter and the Rules are hereby amended as set out in Exhibit A attached hereto, effective January 1, 2026.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 15TH DAY OF DECEMBER, 2025.



CHIEF JUSTICE

ALL JUSTICES CONCUR.

To read the full rules and exhibits, visit <https://bit.ly/45d9RtC> or scan the QR code.



Write On!

How the Bar Journal Delivers Ink, Insights, and MCLE Credit for Authors

By Janet Johnson

AS OBA EXECUTIVE DIRECTOR, I get to wear many hats. Some are less fun than others, such as those times when our aging, yet still beautiful, Oklahoma Bar Center has a sewer system backup, and I become plumber-in-chief for a day (or night). I won't relive that trauma for you here; my therapist has it under control. One of the hats I do enjoy wearing, though, is that of editor-in-chief of the *Oklahoma Bar Journal*, an award-winning legal publication that, in 2026, is entering its 95th year of production.

Why is our association's journal so important? It is the opportunities it provides members to learn and grow in their profession, both as readers and as authors. There is a professional obligation for lawyers not only to represent clients but also to contribute to the strength, integrity, and education of the legal profession. One of the most effective ways attorneys can fulfill this responsibility is by sharing their professional and subject-matter expertise through articles published in scholarly journals and bar association publications, like the *Oklahoma Bar Journal*. These contributions benefit fellow practitioners, improve the quality of legal discourse, and strengthen the profession as a whole. And as of Jan. 1 of this year, there is an even greater benefit to authors. A recent rule

change approved by the Supreme Court ensures that Oklahoma lawyers who author scholarly articles published in the *Oklahoma Bar Journal* will earn 6 hours of MCLE credit. That translates to half of your required credit hours for an entire year. That is what I call a win-win!

What was behind this rule change? A recognition of the time and expertise that goes into crafting this scholarly content. An acknowledgment of those OBA members who use their practical, day-to-day experience to play a critical role in translating complex legal developments into accessible and actionable information.

It should be noted that writing for bar publications also promotes professionalism and ethical practice. Articles that address ethics, professionalism, and best practices help reinforce shared standards within the legal community. Experienced attorneys can use their platform to highlight common pitfalls, encourage thoughtful advocacy, and emphasize the importance of civility and integrity. This peer-to-peer guidance carries particular weight because it comes from colleagues who understand the realities of legal practice.

In addition to benefiting readers, contributing articles strengthens the author's connection to the profession. Writing encourages

lawyers to deepen their understanding of their practice areas, stay current on developments, and reflect critically on their work. It also enhances professional reputation, demonstrating expertise and leadership to peers, judges, and potential clients. Contributing to our bar's publication signals a commitment to the profession beyond individual cases or billable hours.

Ultimately, the legal profession functions best when knowledge is shared rather than siloed. By writing articles for our bar journal, lawyers help elevate the collective competence of the bar, promote ethical and effective practice, and strengthen the institutions that support the profession. This exchange of expertise is not merely an optional activity but a vital component of a healthy and informed legal community. I am looking forward to seeing your contributions in 2026 (and to no repeats of the sewage system incident)!



To contact Executive Director Johnson, email her at janetj@okbar.org.

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for topics and editor contact information.

Approval

The Board of Editors review all articles for publication. Approval is based on quality of the article, its substantive value, its general interest to Oklahoma lawyers and the originality of its subject matter. Preference is given to OBA members.



Beyond the Inbox: Preventing Data Breaches Before They Begin

By Julie Bays

EARLIER THIS YEAR, I wrote about changes to Oklahoma's security breach notification statutes and what those updates mean for lawyers after a breach has already occurred. In my Jan. 7 *Courts & More* tip, I focused on the new post-breach obligations these changes create.¹ Now, I want to turn to the part we often overlook: What measures can prevent a breach from occurring in the first place?

What happens before a breach is just as important as what happens after one. Honestly, it tends to get overlooked because it usually shows up in very ordinary ways. I am talking about everyday moments and routine emails that quietly set the stage for a much bigger problem.

In January 2026, I received an email from a lawyer I know well, someone who regularly sends documents to a group I am a part of. At first glance, the message looked normal. It was simply a shared file, but there was no explanation or context. That struck me as odd. The lack of detail in the message immediately raised a red flag for me. Instead of opening it, I sent the lawyer a separate email from my contacts list. I made sure not to reply directly to the suspicious message and asked whether he had actually sent the file.

The response came quickly from his Outlook account, and it simply said, "A file for your review." That was when my concern grew. The reply was unusually brief and impersonal, which was out of character for him. Given how well I know this lawyer, I expected a more detailed answer or at least a bit of context. The vague response only confirmed my suspicion that something was wrong.

Rather than clicking on the attachment, I did what I always encourage lawyers to do when something feels even slightly off. I paused and picked up the phone. When I called him, I learned that his email account had been hacked. He had not sent me anything at all. Someone else was using his name and signature block. What made this situation especially troublesome was that the scammer had full control of his Outlook account. Not only could the attacker send convincing emails, but they could also reply to new messages sent directly to his account. That meant the scammer could intercept and respond to legitimate inquiries, making the fraud even harder to detect.

That brief pause – just a few seconds – stopped what could have turned into a much bigger problem.

It highlights the importance of trusting your instincts and verifying anything that seems even a little bit off, especially when it comes from someone you know. Recognizing those small cues, like a change in writing style or a lack of context, can be the difference between stopping a breach and becoming a victim.

This is how breaches usually start at law firms. It is almost never dramatic at the beginning.

WHY THESE EMAILS ARE SO EFFECTIVE

Phishing emails aren't the clumsy, typo-filled spam they used to be. Nowadays, they:

- Come from real email accounts that hackers have already hijacked
- Use familiar names, signatures and writing styles
- Contain messages that sound vague but legit ("Please review," "See attached," "Did you request this?")
- Include attachments or links designed to steal credentials or install malware

Once a hacker gains access to one lawyer's account, they don't just



target fellow attorneys. Instead, they exploit the trust and credibility of that compromised account to reach out to everyone listed in the victim's contacts, including colleagues, clients, vendors, family members and anyone else associated with the account. This broad approach dramatically increases the chances that someone will open a malicious attachment or click on a dangerous link, allowing the attackers to spread their reach even further.

This isn't just a tech issue. It's a training and protocol problem. The most effective way to prevent these attacks from succeeding is to ensure everyone understands the risks and follows strict email procedures. Regular training helps people recognize suspicious messages and understand what steps to take when something feels off, whether the message comes from a stranger or from someone familiar.

CYBERSECURITY IS A COMPETENCE ISSUE

We're used to thinking of competence as knowing the law. But these days, being competent means understanding and managing the risks that come with our everyday tech.

Most firms have some security basics covered: spam filters, antivirus software, firewalls and maybe multifactor authentication. But tools alone aren't enough. Human behavior is still the easiest way in for attackers.

If your firm hasn't recently taken a hard look at its cybersecurity protocols and training, now's the time.

Steps Every Firm Should Take **Email handling policies.**

These policies are a critical line of defense against cyber threats. It's not enough to simply avoid opening attachments from unfamiliar senders; staff should be cautious even with messages from trusted contacts, as compromised accounts

can be used to distribute malicious content. Every team member should be trained to recognize warning signs, such as vague or out-of-character requests, and know exactly how to escalate or report suspicious emails. Having well-documented policies in place ensures everyone understands the steps to take when something seems off, reducing the risk of accidental exposure to phishing or malware.

Verification procedures. They should become second nature in your firm's workflow. Before acting on any request involving sensitive information, financial transactions or the sharing of confidential documents, team members must adopt a habit of double-checking the authenticity of the communication. This could mean confirming instructions with a quick phone call, using an alternate communication channel or following up directly with the sender. Making verification standard practice not only protects your firm but also reassures

Stopping a breach before it happens is always easier and cheaper than dealing with the fallout.

clients that their information is handled with the utmost care.

Training and refreshers.

Training and refreshers keep everyone alert to evolving threats. Regular, ongoing education helps staff stay up to date on the latest phishing tactics and cybersecurity best practices. Interactive workshops, simulated phishing exercises and periodic reminders reinforce awareness and empower employees to respond appropriately when faced with suspicious messages. By prioritizing continuous training, the firm creates a culture of vigilance where everyone actively contributes to maintaining a secure environment.

Incident response plans.

Having incident response plans in place is essential for minimizing damage when a security event occurs. Even with robust policies and training, no system is foolproof. Having a clear, actionable plan ensures that the team knows exactly what to do if they suspect a breach, including whom to notify, how to contain the threat and the steps for recovery.

Practicing these response protocols through regular drills helps the firm react swiftly and effectively, reducing downtime and protecting sensitive data.

THE CONNECTION TO OKLAHOMA'S NEW SECURITY BREACH LAW

The new Oklahoma Security Breach Notification Act gives us more to do when it comes to protecting personal information. Yes, it's about notification and response, but the real message is this: Take reasonable steps to keep sensitive data safe. Stopping a breach before it happens is always easier and cheaper than dealing with the fallout.

The scenario I laid out at the beginning of the article is a classic example of how client information, trust account data or confidential messages could all be exposed with one click.

A FINAL THOUGHT

Cybersecurity failures at law firms rarely kick off with dramatic, TV-style hacking scenes. Nine times

out of 10, they start with a regular email on a regular morning.

The real question isn't if your firm will receive one of these messages; it's whether your team's habits, training and systems will catch it before it does any harm.

If you missed my *Courts & More* tip about Oklahoma's new Security Breach Notification Act, now's a good time to check it out alongside your firm's protocols. Together, they cover both sides of the story: what the law requires *after* a breach and what smart practices demand *before* one ever gets started.

Ms. Bays is the OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact her at 405-416-7031, 800-522-8060 or julieb@okbar.org. It's a free member benefit.

ENDNOTE

1. okcourtsandmore.org/jan-7-2026.

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NOTICE: DESTRUCTION OF RECORDS

Pursuant to Court Order SCBD No. 3159, the Board of Bar Examiners will destroy the admission applications of persons admitted to practice in Oklahoma after three years from date of admission.

Those persons admitted to practice during **2020** who desire to obtain their original application may do so by submitting a written request and a \$25 processing fee. **Bar exam scores are not included.** Requests must be received by **April 1, 2026.**

Please include your name, OBA number, mailing address, date of admission and daytime phone in the written request. Enclose a check for \$25, payable to the Oklahoma Board of Bar Examiners.

Mail to: Oklahoma Board of Bar Examiners, P.O. Box 53036, Oklahoma City, OK 73152.



Meeting Summary

The Oklahoma Bar Association Board of Governors met Dec. 5.

REPORT OF THE PRESIDENT

President Williams reported he attended, presided over and addressed the General Assembly at the OBA Annual Meeting and attended the OBA House of Delegates meeting. He also attended the TU College of Law Alumni Luncheon, worked on a replacement appointment for the Oklahoma Child Death Review Board, drafted and submitted the December 2025 president's message for the *Oklahoma Bar Journal*, virtually attended the November meeting of the Membership Engagement Committee and reviewed outside litigation counsel activities. He also coordinated arrangements for and attended the Board of Governors holiday event and December meeting.

REPORT OF THE PRESIDENT-ELECT

President-Elect Peckio reported she attended the OBA Annual Meeting, where she presided over the House of Delegates, and the TU College of Law Alumni Luncheon, met with the TU College of Law interim dean to discuss OBA and TU coordinating efforts to address student job placement and legal deserts, reviewed litigation and invoices related to ongoing outside counsel activities and continued to make 2026 committee appointments.

REPORT OF THE VICE PRESIDENT

Vice President White reported he attended the OBA Annual Meeting and the meeting of the House of Delegates. He also attended the Tulsa County Bar Foundation quarterly meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she attended the OBA Annual Meeting and its accompanying bar business meetings, the November YLD meeting and the Appellate Practice Section meeting. She also drafted her December column for the *Oklahoma Bar Journal*, met with a possible vendor/sponsor for the 2026 Midyear Meeting, drafted and filed the 2026 OBA budget application, drafted and filed the MCLE rule change application as approved at the November Board of Governors meeting, visited with outside counsel regarding legal issues, met with the OBA CLE and MCLE directors to discuss possible member benefits, met with LHL Foundation Consultant/Interim Executive Director Sarah Jane Gillet to discuss upcoming projects and met with the Oklahoma Access to Justice Foundation regarding judicial outreach opportunities.

REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Pringle reported he reviewed legal bills related to bar litigation, spoke at a school

assembly for the Oklahoma School of Science and Mathematics about becoming an attorney and the practice of law and worked on details related to the upcoming has-been party for outgoing board members.

BOARD MEMBER REPORTS

Governor Barbush reported by email he attended the swearing-in ceremony and reception for Bryan County Special Judge Austin Browning, presented the 2025 OBA Family Law Section Courthouse Staff Member of the Year Award to Bryan County Deputy Court Clerk Myranda Richmond (and arranged for coverage by the local paper) and presented a CLE at the Oklahoma Guardian Ad Litem's annual Champions for Children Conference on Dec. 5. **Governor Barker** reported he attended the OBA House of Delegates meeting, where he presented OBA Awards. He also attended the Board of Governors holiday event and its December meeting. **Governor Cooper** reported he attended the OBA Annual Meeting and House of Delegates meeting. He reviewed additional documents related to the current Bar Center Facilities Committee project and attended Oklahoma County Bar Association meetings. **Governor Dodox** reported she attended the OBA Annual Meeting, including the General Assembly and House of Delegates, and the Board of Governors Christmas party and December meeting. **Governor Hixon** reported he attended the OBA Annual Meeting,

Oklahoma ABA Delegate William Hoch encouraged greater participation and feedback from Oklahoma lawyers to ensure OBA members' voices are heard during ABA leadership conversations.

including the Delegates Breakfast, General Assembly and House of Delegates. He also attended the Board of Governors Christmas party and the Tulsa County Bar Association Board of Directors meeting. **Governor Knott** reported she attended the OBA Annual Meeting, including the Delegates Breakfast, General Assembly and House of Delegates. She also attended a CLE hosted by the Tulsa County Bar Association and the TU College of Law. **Governor Locke** reported he attended the Membership Engagement Committee meeting, where public information brochures were reviewed. He also reported that he completed the required training to become a court-authorized mediator. **Governor Oldfield** reported he attended the OBA Annual Meeting, including the General Assembly, House of Delegates

and Credentials Committee meeting. **Governor Rogers** reported he attended the Clients' Security Fund Committee meeting and the Board of Governors holiday party. **Governor Thurman** reported he attended the OBA Annual Meeting, including the Delegates Breakfast, General Assembly and House of Delegates. He also attended the Board of Governors Christmas party. **Governor Trevillion** reported he attended the Access to Justice Committee meeting, the OBA Credentials Committee meeting, the OBA House of Delegates and the Board of Governors holiday event. **Governor West** reported he attended the OBA Annual Meeting, including the General Assembly and House of Delegates, and he also attended a meeting of the Bar Association Technology Committee and the Cleveland County Bar Association Delegates Caucus.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported that the Office of the General Counsel has processed 700 out-of-state attorneys and 567 renewals in 2025. She also reported on the status of pending litigation involving the OBA. A written report of PRC actions and OBA disciplinary matters for the month was submitted to the board for its review.

ABA ANNUAL MEETING DEBRIEF

ABA House of Delegates Chair Jonathan Cole outlined the organization's leadership structure and discussed steps the organization is taking to ensure the ABA is inclusive of multiple viewpoints when determining its issue positions and taking up legislative policy proposals while also considering the germaneness of the issues to the practice of law. Oklahoma ABA Delegate William Hoch encouraged greater participation and feedback from Oklahoma lawyers to ensure OBA members' voices are heard during ABA leadership conversations.

CLIENTS' SECURITY FUND REPORT

The board passed a motion to approve the payout of 10 claims recommended by the Clients' Security Fund Committee for 2025, totaling approximately \$146,845 against a budget of \$175,000, returning excess funds to the

permanent fund. The board also approved a motion to authorize the OBA Communications Department to draft and distribute a press release related to publicizing the payouts of the approved claims.

CONSIDERATION AND APPROVAL OF PUBLIC INFORMATION MATERIALS

The board passed a motion to approve publication of the materials related to consumer legal information that were recently reviewed and updated as necessary by the Membership Engagement Committee.

PRESIDENT WILLIAMS' APPOINTMENTS

The board passed a motion to reappoint Susan Damron to the Child Death Review Board.

PRESIDENT-ELECT PECKIO'S APPOINTMENTS

The board passed a motion to approve the following appointments.

■ Professional Responsibility Commission (PRC):

President-Elect Peckio reappoints Jennifer Castillo, Oklahoma City, and Alissa Dawn Preble Hutter, Norman, to new terms beginning Jan. 1, 2026, and expiring Dec. 31, 2028.

■ Board of Medicolegal Investigations:

President-Elect Peckio appoints Ashley Roberts Webb, Tulsa, to a one-year term beginning Jan. 1, 2026, and expiring Dec. 31, 2026.

■ Board of Editors:

President-Elect Peckio reappoints Melissa DeLacerda, Stillwater, to a one-year term as chairperson, beginning Jan. 1, 2026, and expiring Dec. 31, 2026. President-Elect Peckio reappoints Melanie

Wilson Rughani, Oklahoma City, as associate editor for District 3, and she appoints Alexander Cale Wilson, Muskogee, as associate editor for District 7, with terms beginning Jan. 1, 2026, and expiring Dec. 31, 2028.

■ Audit Committee (BOG Members Only):

President-Elect Peckio appoints S. Shea Bracken, Edmond, to a one-year term beginning Jan. 1, 2026, and expiring Dec. 31, 2026. She appoints Chris D. Jones, Durant; Blayne P. Norman, Wewoka; Kristy E. Loyall, El Reno; and Molly A. Aspan, Tulsa, to three-year terms beginning Jan. 1, 2026, and expiring Dec. 31, 2028.

■ Clients' Security Fund Committee:

President-Elect Peckio reappoints Stephen R. Stephens, Stillwater; Bryan R. Lynch, Norman; Jeffrey C. Smith, Poteau; Peggy Stockwell, Norman; and lay member Michelle S. Chilton, CPA, to new terms beginning Jan. 1, 2026, and expiring Dec. 31, 2028.

UPCOMING 2026 OBA AND COUNTY BAR EVENTS

President Williams reviewed upcoming bar-related events and activities involving the Board of Governors, including the swearing-in ceremony for new officers and board members on Friday, Jan. 16, in Oklahoma City and the Legislative Kickoff on Friday, Jan. 30, at the Oklahoma Bar Center.

NEXT BOARD MEETING

The Board of Governors met in January, and a summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be held in Oklahoma City on Friday, Feb. 20.

FROM THE PRESIDENT

(continued from page 4)

governance, compliance and risk management strengthens local institutions that rely on volunteer leadership. In these roles, lawyers help ensure that community organizations can focus on their missions without being undermined by legal uncertainty.

Finally, lawyers are educators and trusted public resources. Through workshops, articles, presentations and informal conversations, lawyers help demystify the law for the people it affects every day. Explaining changes in statutes, clarifying legal obligations or dispelling common misconceptions empowers community members to make informed decisions. This educational role reduces fear of the legal system and encourages lawful, proactive behavior. The

OBA's May 1 celebration of Law Day and its annual, concurrent Ask A Lawyer community service project are the perfect opportunity for Oklahoma lawyers to put words into action and serve in that educational role! Be on the lookout for this year's volunteer sign-up information in your local area.

To sum it all up, in an era when public trust in institutions is often strained, the presence of engaged, ethical lawyers matters more than ever. By expanding access to justice, solving problems, upholding the rule of law, supporting civic life and educating the public, lawyers contribute to communities that are fairer, more resilient and better equipped to meet future challenges. Our work may not always be visible, but our impact is enduring.

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always be visible,
but our impact is
enduring.



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From the OBF President

Celebrating 80 Years of Impact and Continuing to Expand Access to Justice Statewide

By M. Courtney Briggs

A S I BEGIN MY TERM AS

President of the Oklahoma Bar Foundation, I do so with a clear appreciation for the responsibilities entrusted to the foundation and for its longstanding role in supporting access to justice across Oklahoma. My early work in publishing provided a practical understanding of how legal frameworks protect interests and facilitate informed decision-making, ultimately leading me to pursue a career in the law. Later, my service as chairperson of the OBA Young Lawyers Division reinforced the importance of public service and demonstrated the value of sustained engagement in our professional community. That experience, and the lasting relationships formed through it, continues to inform my commitment to the foundation's mission and to the broader responsibilities we share as members of the legal profession.

This year marks the OBF's 80th anniversary, a milestone that underscores both the progress made and the responsibility ahead. What began as a modest effort to support law-related issues has grown into a statewide leader in funding programs that expand access to justice. The generosity of Oklahoma lawyers over eight decades has strengthened our endowment and enabled the foundation to support



CASA of Oklahoma County Executive Director Kim Vanbberber (left) presents the organization's Community Impact Award to the Oklahoma Bar Foundation, represented by OBF President M. Courtney Briggs, Executive Director Renee DeMoss and Director of Grant Services and Communications Jessi Hesami.

organizations whose work reaches thousands of individuals each year. As we honor this legacy, we also look to the future: ensuring sound stewardship of our resources, strengthening our partnerships and maintaining the stability of our annual grantmaking for the long term.

The organizations we support best demonstrate the foundation's impact. Legal Aid Services of Oklahoma provides essential civil legal assistance to vulnerable individuals across the state. Oklahoma

Lawyers for Families and Children ensures that abused and neglected youth receive the advocacy they deserve. Numerous youth justice, diversion and legal education programs create avenues for accountability, understanding and second chances. Community organizations funded by the OBF work to improve access to the courts, assist individuals navigating legal processes and expand legal literacy in meaningful and practical ways.

Among our partners, CASA programs, including CASA of Oklahoma County and CASA organizations in Tulsa and statewide, perform particularly important work. Their trained volunteers provide consistent, informed advocacy for children navigating the court system, ensuring their voices are heard during difficult proceedings. Earlier this year, CASA of Oklahoma County honored the OBF with its Community Impact Award. I was privileged to accept the award on behalf of the OBF and to witness firsthand the dedication of CASA volunteers and the measurable impact their service provides. It was the first award the foundation has received and a meaningful recognition of our longstanding investment in the well-being of Oklahoma's children.

Another significant grantee, the Lawyers Helping Lawyers Assistance Program, offers confidential support to attorneys facing mental health challenges, substance use concerns and the pressures inherent in legal practice. Through counseling resources, peer assistance and crisis intervention, Lawyers Helping Lawyers contributes to the well-being of individual attorneys and to the overall health and integrity of the profession. Supporting those

who serve the public is essential to maintaining a fair and reliable justice system.

As we celebrate this anniversary year, I invite every member of the OBA to engage with the foundation's mission – whether by contributing to the endowment, sharing our work within your networks or encouraging community organizations to seek support. The needs across our state remain significant, and collective participation is vital to meeting them.

I extend my sincere appreciation to the donors, volunteers, board members and staff who sustain the OBF's work. Your dedication over the past 80 years has built an institution that is both resilient and deeply impactful. I look forward to our continued work together on behalf of all Oklahomans.



Ms. Briggs practices in Oklahoma City and serves as the 2026 OBF president.

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ON THE MOVE

Dwight L. Smith has relocated the office of his alternative dispute resolution practice, effective Jan. 1, to: Dwight L. Smith PLLC, ADR Services, Mid-Continent Tower, 401 S. Boston Ave., Ste. 500, Tulsa, 74103. Mr. Smith's practice is limited to the provision of neutral services as a mediator, arbitrator and special master. He is affiliated with Dispute Resolution Consultants and is a member of the American Arbitration Association's national panels of commercial, construction and consumer arbitrators. He is also a member of the National Academy of Distinguished Neutrals.

Colby Byrd and **Emalie Foster** have been elected as fellow shareholders at the law firm of McAfee & Taft. Mr. Byrd is a trial lawyer in the firm's Oklahoma City office who represents a wide variety of clients – including individuals, landowners, local and family-owned businesses, energy companies, real estate developers and financial institutions – in business, commercial and real estate litigation. He also serves as the leader of the firm's Agriculture

and Equine Industry Group and dedicates a significant portion of his practice to the representation of agricultural producers, businesses and interest groups in a variety of matters affecting those industries. Ms. Foster is a trial lawyer in the firm's Tulsa office whose practice is primarily focused on the representation of clients in domestic family law matters, including disputes and negotiations involving prenuptial agreements, complex divorce actions and related settlement agreements, complex valuations involving personal and business assets, the apportionment of assets and debts, the division of retirement assets, child custody and visitation arrangements, and alimony and child support payments. She also devotes a portion of her practice to complex business and commercial litigation, products liability defense and insurance defense.

Christopher T. Combs has been named a partner at the law firm of Hayes Magrini & Gatewood. His practice includes construction, surety, insurance and commercial litigation. He received his J.D. from the OU College of Law.

The law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds PC will operate under the new name of Gladd, Maguire, Allen, Brown & Wakeman PC. All contact information, such as email addresses, telephone numbers and the firm address, will remain the same.

David Herber has been promoted to of counsel at the law firm of GableGotwals. Mr. Herber focuses his practice on administrative and regulatory law, energy and environmental law, bankruptcy, insurance and various other commercial disputes. Prior to joining the firm, he served as deputy general counsel in the executive office of Gov. J. Kevin Stitt, where he advised the governor and his office on various issues related to administrative law, state ethics rules, elections and criminal law. He also served as a judicial extern to Chief Judge Joe Heaton in the United States District Court for the Western District of Oklahoma and as a summer law clerk in the Civil Division of the United States Attorney's Office for the Western District of Oklahoma.

HOW TO PLACE AN ANNOUNCEMENT:

The *Oklahoma Bar Journal* welcomes short articles or news items about OBA members and upcoming meetings. If you are an OBA member and you've moved, become a partner, hired an associate, taken on a partner, received a promotion or an award or given a talk or speech with statewide or national stature, we'd like to hear from

you. Sections, committees and county bar associations are encouraged to submit short stories about upcoming or recent activities. Honors bestowed by other publications (e.g., *Super Lawyers*, *Best Lawyers*, etc.) will not be accepted as announcements. (Oklahoma-based publications are the exception.) Information selected for publication is printed at no cost, subject to editing and printed as space permits.

Submit news items to:

Hailey Boyd
Communications Dept.
Oklahoma Bar Association
405-416-7033
barbriefs@okbar.org

Articles for the April issue must be received by March 1.

Jessica Swapp Wilkerson has been named a partner at the Chickasha law firm of McCalla Brown Patel LLP. Ms. Wilkerson joined the firm in 2018 after graduating from the OU College of Law. Her practice focuses on civil litigation and estate administration for probate and trust proceedings, as well as a wide range of real property and oil and gas matters, including transfers, leases, surface damage agreements and quiet title matters.

Teak Hull, Bryan Lynch and Jeffrey Wilson have been elected shareholders of the law firm of Hall Estill. Mr. Hull is based in the Tulsa office, where he represents health care systems and providers in medical malpractice litigation, defending matters from inception through trial. He also advises clients on electronic discovery issues, with a particular focus on matters involving electronic health record systems. In addition to his practice, he serves as chair of the Board of Directors for the Child Advocacy Network. Mr. Lynch, who is in the Oklahoma City office, provides tailored guidance in complex transactions, high-stakes litigation and day-to-day legal needs. He serves as a strategic partner across

corporate, litigation and regulatory matters, with experience in banking, energy and technology and particular insight into the needs of dentists, pharmacists and small business owners. Mr. Wilson, from the Tulsa office, is an experienced attorney with nearly 40 years of practice in health care, litigation and medical malpractice, focusing on drafting trial and appellate briefs for the firm's Medical Malpractice Defense Group, as well as general appellate representation.

Brian Blackstock, Gerard D'Emilio, Zoe Butts Dowdell and Alex Telarik have been elected shareholders of the law firm of GableGotwals. Mr. Blackstock focuses his practice on defending corporate and individual clients in a variety of civil litigation matters in state and federal courts. He represents health care professionals during investigations and disciplinary proceedings before state licensure boards and regulatory agencies. Mr. D'Emilio focuses his practice on a wide range of litigation and appellate matters. Before joining GableGotwals as an attorney, he served as a judicial law clerk to Judge Jerome Holmes of the United States Court of Appeals for the 10th Circuit and Judge David L. Russell of the United States District

Court for the Western District of Oklahoma, as well as a judicial extern to Judge Robert E. Bacharach of the 10th Circuit. Ms. Butts Dowdell represents clients in a variety of general health care matters. With a background in health care litigation, she works closely with clients through the litigation process. Her practice includes matters in both state and federal courts, including handling litigation matters from the date of filing through trial and appellate matters. She currently serves on the Board of Directors for the Oklahoma County Bar Association and is a member of the William J. Holloway American Inn of Court. Mr. Telarik advises clients across the economic spectrum, with a particular focus on Oklahoma's oil and gas industry. His clients range from Fortune 500 companies to small businesses and individuals. His practice includes complex disputes involving environmental and remediation issues, royalty and title matters, the Oklahoma Surface Damages Act, shareholder and partnership disputes, trade secret misappropriation and other business litigation matters. He currently serves on the Tulsa Resource Board for Big Brothers Big Sisters of Oklahoma.

AT THE PODIUM

Walter Jenny was the keynote speaker at the Veterans Day celebration at Veterans Memorial Park in Abingdon, Virginia. He spoke on the topic of the Battle of Yorktown. Mr. Jenny is currently

in his seventh year as president of the local historical society and serves on several other nonprofit boards in Virginia.

KUDOS

Eric Estes has been named a 2026 Legends in Law honoree by The Burton Awards, co-sponsored by the American Bar Association. Mr. Estes serves as general counsel of Tulsa- and Pryor-based Xcaliber International. This national honor is awarded annually to a select group of elite general counsel across the country and will be formally recognized at a ceremony held at the Library of Congress in Washington, D.C.

Baer Timberlake PC has been recognized by *The Oklahoman* as one of Oklahoma's top workplaces for 2025, an honor based entirely on employee feedback. Founded in 1968, Baer Timberlake provides experienced legal counsel in real estate and related corporate matters. The firm's practice includes real estate transactions, mortgages, contract drafting and enforcement, curative title actions and title insurance underwriting issues. The firm primarily represents banks, mortgage lenders and loan servicers, handling plaintiff matters and related litigation.



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We want to feature your work on "The Back Page" of the *Oklahoma Bar Journal*! All entries must relate to the practice of law and may include articles, reflections or other insights. Poetry, photography and artwork connected to the legal profession are also welcome. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.



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IN MEMORIAM

Dorothy Johnston Amis of Austin, Texas, died May 10, 2025. She was born March 30, 1938, in Dallas. Ms. Amis graduated from the Hockaday School for Girls and earned a bachelor's degree from the University of Texas at Austin. She received her J.D. from the OU College of Law in 1979 and practiced in Oklahoma and Texas until her retirement at age 74. Ms. Amis enjoyed a long employment as a staff attorney to Federal Magistrate Judge Paul Stickney in the United States District Court of the Northern District of Texas.

Jack D. Fisher of Edmond died Jan. 3. He was born April 25, 1951, in Guthrie. Mr. Fisher grew up in Crescent, where he was a three-sport star athlete, playing quarterback, shooting guard and catcher for the Tigers. He graduated from Southwestern Oklahoma State University and received his J.D. from the OCU School of Law in 1975. After clerking for Judge Homer Smith and practicing with Bay, Hamilton, Renegar & Lees for a year, he started his own law practice with his wife. Mr. Fisher was a criminal law attorney and became one of the first in Oklahoma to be certified to handle federal *habeas corpus* cases.

Bill G. Freudenrich Jr. of Tulsa died Oct. 31, 2025. He was born May 6, 1961, in Oklahoma City. He graduated from OSU, where he majored in accounting and was an active member of the Sigma Phi Epsilon fraternity. He received his J.D. from the TU College of Law in 1988 and practiced mainly in Employee Retirement Income Security Act law. His career spanned 40 years, with significant relationships

formed at Mysock & Chevaillier; Boone, Smith, Davis, Hurst & Dickman; and McAfee & Taft, where he was a founding partner of the firm's Tulsa office and from where he eventually retired.

Cody E. Gilbert of Oklahoma City died Dec. 5, 2025. He was born Oct. 15, 1985, in Pauls Valley. Mr. Gilbert grew up in Garvin County in the Elmore City and Pauls Valley areas and graduated from Elmore City High School. He received his J.D. from the OCU School of Law in 2011 and lived in the Oklahoma City area since 2004.

Hali Klein Goss of Oklahoma City died Nov. 11, 2025. She was born March 28, 1961, in Tulsa. She graduated from TU with a bachelor's degree and received her J.D. from the TU College of Law in 1992. Ms. Goss began her career with State Farm while attending law school. That career would span nearly 40 years, during which time she received multiple professional designations.

John B. Hayes of Edmond died Nov. 24, 2025. He was born March 21, 1938, in Wilburton. He graduated from OSU and received his J.D. from the OU College of Law in 1962, where he was a member of the Order of the Coif and Phi Delta Phi. Mr. Hayes practiced law for more than 60 years. His legal career began at the law firm of Looney, Nichols, Johnson & Hayes before he co-founded Hayes Magrini & Gatewood, where he remained active throughout his life. He was a long-standing member of the American Bar Association, including the Fidelity and Surety Law Committee and the Forum on

Construction Law. He also served as vice chair of the Fidelity and Surety Law Committee. He frequently lectured at ABA programs and the Defense Research Institute and authored numerous articles and treatise chapters on fidelity, surety and construction topics.

Eddie Wayne Jackson Sr. of Oklahoma City died Nov. 5, 2024. He was born June 3, 1941, in Dimebox, Texas. Mr. Jackson graduated from Moore High School and received his J.D. from the OCU School of Law in 1996.

Michael David Lewis of Edmond died July 28, 2025. He was born Aug. 17, 1960, in Lawton. He graduated from Putnam City Original in 1978. He earned his bachelor's degree in business management from OSU in 1982, where he was a member of the Oklahoma Beta Chapter of the Phi Delta Theta fraternity. He served as the fraternity's president from 1981 to 1982 and later as a chapter advisor. Mr. Lewis received his J.D. from the O.W. Coburn School of Law at Oral Roberts University in 1986 and was a member of the law school's last graduating class before it closed in 1986. He worked as an associate at the law firm of Looney, Nichols, Johnson & Hayes in Oklahoma City, where he practiced insurance defense, among other things. Mr. Lewis left the firm in 1990 to form his own practice and remained self-employed until his death.

Steven Louis Little of Oklahoma City died June 29, 2025. He was born Feb. 10, 1956. Mr. Little received his J.D. from the OCU School of Law in 1986.

Donald L. McCorkell Jr. of Aliso Viejo, California, died March 25, 2025. He was born June 28, 1947, in Baltimore. Mr. McCorkell lived in Tulsa for most of his life before relocating to California. He graduated from TU with a bachelor's degree in political science and received his J.D. from the TU College of Law. Mr. McCorkell represented Tulsa's 72nd District in the Oklahoma House of Representatives from 1979 to 1996. During his 17-year tenure, he became known for his commitment to economic development, public education and bipartisan cooperation. In 1996, he stepped down from the Legislature to run for the U.S. Senate, and a decade later, he ran for mayor of Tulsa. After his political career, he focused on environmental documentary film-making and was passionate about literature and storytelling.

Judge James Hardy Payne of Tulsa died Dec. 2, 2025. He was born March 3, 1941, in Lubbock, Texas. He graduated from high school in Stamford, Texas, in 1959. Judge Payne received a football scholarship from OU, where he graduated with a bachelor's degree in 1963. He received his J.D. from the OU College of Law in 1966, and during law school, he served as a graduate assistant coach for the OU football team. **B**etween 1966 and 1970, he served as a judge advocate general officer in the U.S. Air Force with Strategic Air Command at Columbus Air Force Base in Columbus, Mississippi. He served a temporary duty assignment at Andersen Air Force Base in Guam and was discharged from active duty in 1970. Judge Payne moved to Oklahoma in 1970 and

served as an assistant U.S. attorney for the Eastern District of Oklahoma in Muskogee. He briefly worked in private practice in Muskogee while serving as a U.S. magistrate judge for the Eastern District of Oklahoma. **H**e resumed his Air Force service as a reserve JAG officer before retiring in 1992 as lieutenant colonel. In 1988, he was appointed as a full-time U.S. magistrate judge in the Eastern District of Oklahoma and then as a U.S. district judge by President Bush in 2001. He kept chambers and received cases in both the Eastern and Northern districts and served as the chief judge of the Eastern District from 2002 to 2017. He transitioned to inactive senior status in 2020.

Michelle Goen Porta of Henderson, Nevada, died Jan. 8. She was born Jan. 28, 1948. Ms. Porta retired Jan. 3, 2023. She received her J.D. from the OCU School of Law in 1978.

John Ray Stacy of Oklahoma City died Dec. 7, 2025. He was born Dec. 31, 1949, in Oklahoma City. He graduated from Northwest Classen High School in 1968. Mr. Stacy attended OSU and OU, where he earned a bachelor's degree in psychology. He received his J.D. from the OCU School of Law in 1975. After Mr. Stacy's 31-year law career, he shifted his focus and became a founder of Striker Land Services. In recent years, he worked as an independent landman. He served on numerous committees and organizations and was honored widely for his service and involvement.

James Ray Stout of Edmond died Nov. 30, 2025. He was born April 10, 1946, in Oklahoma City. He graduated from Classen High School and OU with a bachelor's degree. Mr. Stout received his J.D. from the OU College of Law in 1972 and practiced law in Yukon for 48 years. **H**e also served in the Marine Corps Reserve for four years. He was a member of the Choctaw Nation, and during his time at OU, he was a member of the Delta Tau Delta fraternity.

John Thomas Synowicki of Dallas died Dec. 28, 2025. He was born Feb. 11, 1984, in Omaha, Nebraska. He graduated from Millard North High School in 2002, where he was captain of both the varsity football team and the debate team. He attended Dana College, where he was captain of the football team, a three-time All-American and valedictorian. Mr. Synowicki triple majored in history, international studies and Spanish. He received his J.D. from Vanderbilt Law School in 2010. During law school, he served as chief justice of the Vanderbilt Moot Court Board, was on the dean's list, received the Thomas Banks Award, competed on the Jessup International Moot Court team and was a member of the Phi Delta Phi Honors Society. Mr. Synowicki worked for GableGotwals and Polsinelli Law Firm, where he was a shareholder. He was a frequent speaker across the country, and he helped shape policy, taught and lectured.

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DEPUTY GENERAL COUNSEL I. At the Oklahoma Health Care Authority (OHCA), your work matters. Every day, our team helps ensure Oklahomans have access to better health and better care. The Deputy General Counsel I provides expert legal support and strategic counsel to the Oklahoma Health Care Authority's (OHCA) Medicaid Division. The role is responsible for ensuring compliance with state and federal laws, supporting the SoonerSelect program, and handling legal matters such as research, drafting, and discovery. This position involves collaborating with stakeholders, analyzing legislative impact, and participating in administrative and court hearings. The Deputy General Counsel I plays a critical role in guiding legal strategies, protecting the agency's interests, and contributing to the effective operation of OHCA's mission to improve health outcomes for Oklahomans. Must have a Juris Doctor degree from an accredited law school, a license to practice law in Oklahoma and be a current member of the OK Bar Association. Prefer the following certifications: CHC, CIPP/US, PMP, Mediation, Arbitration, or CPM. Deadline: 2/15/26. Apply at: <https://bit.ly/4sHzmgO>.

THE OBA OFFICE OF THE GENERAL COUNSEL has an immediate opening for an Assistant General Counsel. Duties include the review of attorney grievances from initial receipt through potential disciplinary hearing. The ideal candidate will have a minimum of 2 years as an Oklahoma-licensed attorney, experience in appellate brief writing and strong legal research skills. The OBA is an equal opportunity employer with a competitive salary that is commensurate with experience. The OBA offers 100% paid employee health insurance along with dental and life insurance. To apply, please submit your resume by email to ginah@okbar.org.

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Celebrate America's 250th Birthday and the Rule of Law

By Judge Thad Balkman

HOW DO YOU PLAN TO celebrate America's 250th birthday this year? Join members of Oklahoma's judiciary and me in learning about and promoting our country's most enduring, valuable qualities – the rule of law and the protections it provides to our freedoms and liberties.

Fireworks and barbecues will always be time-honored Independence Day traditions, but this year's Fourth of July is not just another celebration, and 2026 isn't an ordinary year. This year, let's invest in ourselves and in future generations by learning and discussing what makes the United States of America the greatest nation on Earth.

Early last year, President Trump issued an executive order "to provide a grand celebration worthy of the momentous occasion of the 250th anniversary of American Independence on July 4, 2026, ... [and] to take other actions to honor the history of our great Nation." What actions honor America's history more than promoting the rule of law and other founding principles contained in the Declaration of Independence and the U.S. Constitution? This is an excellent opportunity to commit to upholding these principles and passing them down to the next generations in the hopes that they will become effective citizens and leaders.



Everyone can celebrate America's semiquincentennial in their homes and communities. Online databases and other resources place the tools at our fingertips to learn about the freedoms expressed in the Declaration of Independence and protected by the Constitution.

To help in this effort, judges across the state are committed to speaking about the rule of law and other founding freedoms in local schools, civic clubs and other forums as invited. As judges, we have taken a solemn oath to uphold the rule of law by impartially interpreting and applying laws, ensuring due process, safeguarding constitutional rights (especially for minorities), resolving disputes based on evidence and acting as a check on other government branches – all while remaining

independent from political pressure and ensuring justice is predictable and equal for everyone. We stand on the front lines of the battle to preserve these sacred liberties that make our nation so special. We hope to share our knowledge and experience with the community throughout 2026, increasing awareness of and respect for the rule of law and our essential freedoms.

We welcome invitations to speak to social studies, civics and government classes in high schools, middle schools and elementary schools. We seek opportunities to speak at service clubs, business organizations and other gatherings. We hope these occasions will be frequent and fruitful so that Oklahoma residents, citizens and noncitizens alike will have a deeper understanding and appreciation for the United States of America and the freedoms and liberties that have made it special for the past 250 years.

You can contact your district court judges on www.oscn.net. Join us in celebrating America's 250th birthday in this unique and rewarding manner.

Judge Balkman is the presiding judge for Oklahoma's 21st Judicial District. He can be reached at thad.balkman@oscn.net.



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