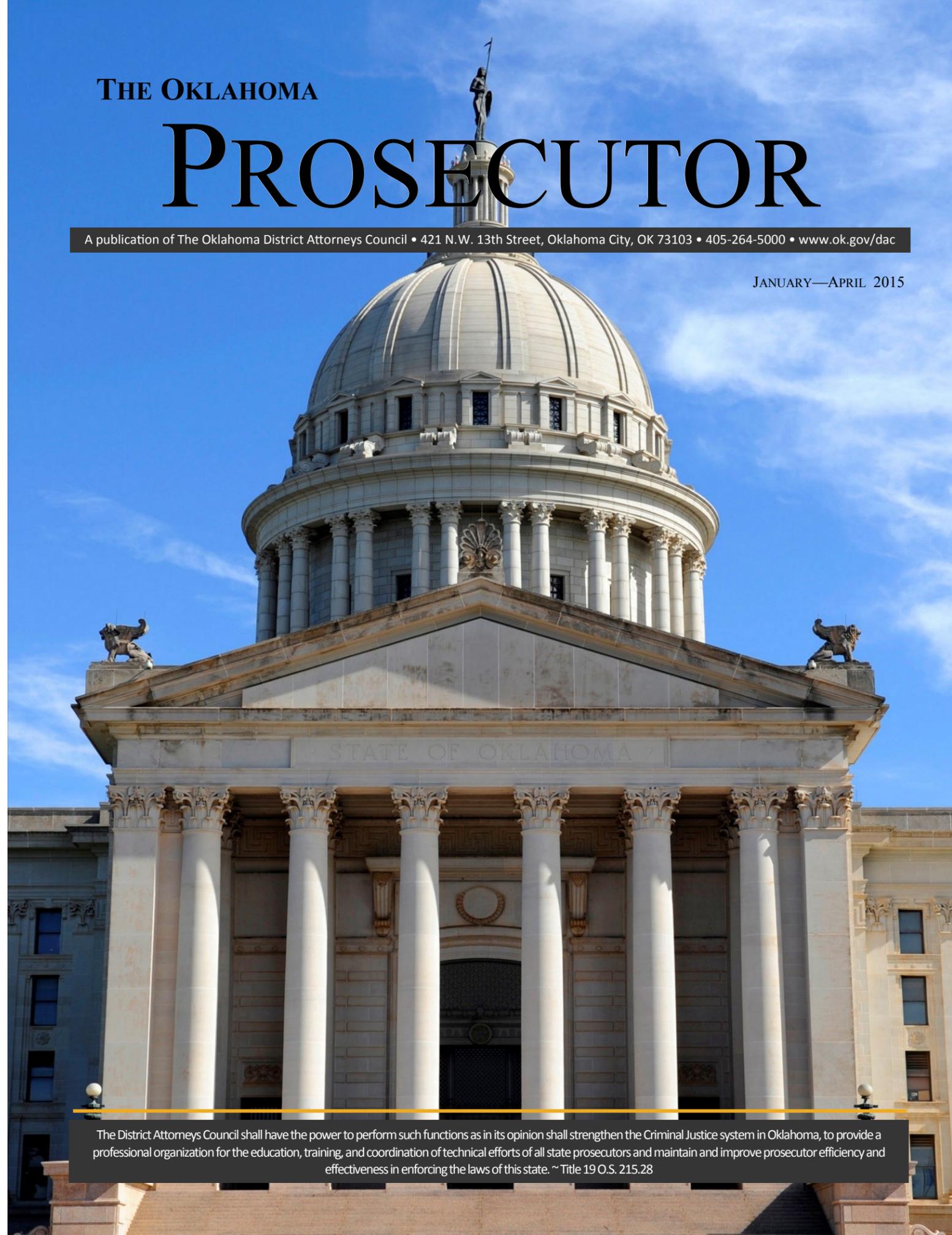


THE OKLAHOMA

PROSECUTOR

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JANUARY—APRIL 2015



The District Attorneys Council shall have the power to perform such functions as in its opinion shall strengthen the Criminal Justice system in Oklahoma, to provide a professional organization for the education, training, and coordination of technical efforts of all state prosecutors and maintain and improve prosecutor efficiency and effectiveness in enforcing the laws of this state. ~ Title 19 O.S. 215.28



From the Desk of
SUZANNE McCLAIN ATWOOD, EXECUTIVE COORDINATOR

Hello, all! It is my great pleasure to introduce the “rebirth” of our publications, the *Prosecutor*, and its sister publication, the *Lineup*. You’ll see a new look, new content, new delivery methods and a fresh new face. It is our hope this effort will be useful for you.

At the District Attorneys Council, one of our duties is to provide you with information. As your liaison to state and federal government, we collect information from you to share with policymakers, but we strive as well to provide you with useful, timely, relevant information that keeps you informed and helps you to do your job better. You are on the front lines, seeking justice every day. It is our duty to assist behind the scenes where we can.

Having been at the Council more than 20 years, I remember when this publication was typed. Yes, I really said TYPED. On a typewriter. I KNOW. With the advent of computers, we were able to wordsmith it better, before printing it and promptly mailing to each of you. Then the internet and email arrived, and suddenly, I thought, “Wow, my job just got a whole lot easier!” Now I can share all sorts of information – quickly.

That is true. All sorts of information is there, ready for the sharing. The problem? It’s so much, it can be information overload. When you’ve just run in to your desk for a quick 15 minutes after a full day of court, or you’ve just completed a complex investigation on a conspiracy to deliver drugs, or you’ve just sat down after guiding witnesses and victims through a particularly trying day, or

you’ve just opened email after preparing sixteen charges, opening files, filing J&S’s and preparing subpoenas, the last thing you have time for is a lengthy publication from DAC. So, now the challenge is ensuring what we provide is easily accessed, relevant and worth your time. And in trying to identify that for all 1136 of you in the District Attorney system.

So here’s our plan. At the direction of our governing board, we have developed the *Prosecutor* into a printed publication for lawyers which will be published three times each year. It will contain legal news, information, and scholarly articles relating to our profession. To supplement, we will produce the *Lineup*, an electronic publication in an easy-to-read format, with hyperlinks so you can review only those items of interest to you. It will feature news, case updates, articles and other information of interest, and will be sent to everyone in the District Attorney system.

It is our hope that these two formats can increase the useful information finding its way into your in-boxes, both tangible and electronic, while decreasing the mass of emails you receive. This is a work in progress, so please share your comments.

As always, I remain grateful for each and every one of you, seeking justice. Your jobs are often thankless. You often stare evil in the face, never batting an eye. You seek justice, whether that means seeking the death penalty, offering rehabilitation or dismissing a case due to insufficient evidence. I admire you for your dedication, and thank you for keeping us safe.

UPCOMING EVENTS AND TRAINING

APRIL

Prosecutor Boot Camp

April 29—May 1
Wes Watkins Center - Stillwater
Prosecutors

MAY

Child Support Annual Conference

May 27—29
Norman Postal Training Center
IV-D attorneys and staff

JUNE

Oklahoma Victims Assistant Academy

June 21-26
UCO, Edmond
Victim Advocates

ANNUAL SUMMER CONFERENCE

JULY 21– 24, HARD ROCK HOTEL, TULSA

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The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that **justice shall be done**. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that **guilt shall not escape or innocence suffer**. He may prosecute with earnestness and vigor – indeed, he should do so. But, **while he may strike hard blows, he is not at liberty to strike foul ones**. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Berger v. U.S., 295 U.S. 78, 88 (1935)

2015 DISTRICT ATTORNEYS COUNCIL MEMBERS



CHRIS ROSS
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District 22
Ada, OK



MIKE BORING
Vice Chair
District 1
Guymon, OK



DAVID PRATER
Member
District 7
Oklahoma City, OK



JOHN WAMPLER
Member
District 3
Altus, OK



SCOTT PRUITT
Member
Attorney General
Broken Arrow, OK

DID YOU KNOW?

The Oklahoma *Prosecutor* has a sidekick called *The Lineup*.

If you'd like to receive the *Lineup*—a succinct monthly email follow-up to the *Prosecutor*—please email DACTraining@dac.state.ok.us.

This publication is issued by the District Attorneys Council as authorized by 65 O.S. § 3-113.2(2). 350 copies have been prepared and distributed at a cost of \$1,695.08. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries pursuant to 74 O.S. § 31-5(B).

DISTRICT ATTORNEYS TAKE OATH OF OFFICE

Seven newly elected District Attorneys joined 20 returning District Attorneys this term, as they were sworn into office at a ceremony scheduled January 5, 2015. Presiding at the ceremony was *Chief Judge David Lewis*, Oklahoma Court of Criminal Appeals.



In the photo above, pictured left to right: *John Wampler, Kevin Buchanan, Chris Ross, Emily Redman, Mark Matloff, Jason Hicks, David Prater, Richard Smothermon, Angela Marsee, Laura Austin Thomas, Judge David Lewis, Craig Ladd, Rob Barris, Max Cook, Brian Kuester, Mike Fields, Mike Boring, Brian Hermanson, Rex Duncan, Matt Ballard, Kenny Wright, Steve Kunzweiler, Orvil Loge, Jeff Smith, Farley Ward, Greg Mashburn and Chris Boring.* Not pictured: *Fred Smith.*

BREEDLOVE RECOGNIZED WITH NATIONAL HONOR



Suzanne Breedlove, Director of Victim Services at the District Attorneys Council, has been selected to receive the Ronald Wilson Reagan Public Policy Award. This award, first announced during the 2005 National Crime Victims' Rights Week Awards Ceremony, honors those whose leadership, vision, and innovation have led to significant changes in public policy and practice that benefit crime victims. The award is one of 11 given by the Department of Justice in different categories during National Crime Victims' Rights Week. It will be presented during a ceremony in Washington, D.C. April 21, 2015.

The public policy changes instituted by Suzanne, inspired former District Attorney Dianne Barker Harrold, to nominate her for this honor. Three years ago, Suzanne developed a grant proposal to fund much-needed outreach to Indian Country. The project was funded and has become a model for the nation.

Suzanne, who serves as Director of the District Attorneys Council's Victim Services Division, has spent more than 30 years in victim services. Her passion and dedication to serve has benefited so very many throughout our state, and nationwide. We are proud to recognize and thank her for her continued dedication.

MEET YOUR DISTRICT ATTORNEYS

DISTRICT 1 MIKE BORING



**Beaver, Cimarron,
Harper and Texas**

James M. (Mike) Boring was elected District Attorney for District One beginning January 3, 2003. District One covers four counties including Cimarron, Texas, and Beaver Counties in the Oklahoma Panhandle, and Harper County.

Boring has been a life long resident of Texas County located in the center of the Panhandle. He graduated from Guymon High School in 1968. After attending Central State University, Boring graduated from Panhandle State University in 1973. He received his Juris Doctorate in law from Oklahoma City University and became a member of the Oklahoma Bar Association in 1976. While at OCU, Boring served as a representative on the law school Board of Governors, and served as Chairman of Board of Governors his senior year of 1975-76.

Upon graduation from law school, Boring and his wife, Christine, moved back to Guymon where he was engaged in the private practice of law from 1976 to 2003. Boring has three sons, Rusty, Austin, and Chris. While his sons were growing up, Boring was very active in coaching and heavily involved with Kids, Inc. for 18 years. Boring and his boys are avid sports and outdoor

enthusiasts.

Boring is serving his fourth term in office as District Attorney. His administration has been marked by many significant changes in the operations of the district attorney's office from the previous administration. All services provided by the district attorney have been greatly expanded and new services have been added.

Boring has served as a Board Member for the Oklahoma District Attorneys Association beginning in 2005. He served in that capacity until being elected as the President Elect in July, 2014. He serves as Vice Chair of the District Attorneys Council. He was chosen to represent the District Attorneys of Oklahoma on the Justice Assistance Grant Board in 2007, and served on that board through 2013. Boring was appointed by Governor Mary Fallin to serve on the OSBI Commission in 2013 and is currently serving in that capacity.

DISTRICT 2 ANGELA MARSEE



**Beckham, Custer, Ellis, Roger
Mills and Washita**

On January 5, 2015, *Angela Marsee* was sworn in as District Attorney for the Second District. She previously served as Assistant District Attorney in that district since 2007 when she moved home to Western Oklahoma. Her responsibilities have included

the prosecution of violent felony crimes, primarily crimes against women and children, in multiple counties within the district. After graduation from Oklahoma State University with a B.S. in Journalism and Broadcasting, she obtained her J.D. from the University of Oklahoma. In 1997, Marsee began her career as an Assistant District Attorney in the Juvenile Division of the Oklahoma County District Attorney's Office and was assigned to the Criminal Division, initially prosecuting general felonies and later transferring to the Domestic Violence and Special Victims' Units.

Community involvement has been important to Marsee, and she serves on the boards of Multi-County Youth Services, Weatherford Rotary Club and Clinton Arts Council. She is currently Vice President of P.E.O. Chapter GE and has served as President of the Custer County Bar Association. She is active with the Custer/Washita Counties Child Protection Team, Domestic Violence Task Force and Coordinated Community Response Team.

Her accomplishments include being a 2014 graduate of Leadership Oklahoma, Class XXVII, the 2012 recipient of the Julia Levy Youth Advocate Award and a 2009 graduate of Leadership Weatherford. In 2014 Marsee garnered three additional outstanding awards, being recognized with the "Distinguished Service Award for Excellence in Service to Victims and Survivors of Violence Against Women," the "Award for Excellence in Action Against Domestic Violence," and the "Mitch Sperry Award for Outstanding Prosecutor."

Marsee and her artist husband Bobby live in Weatherford with their rescue dog "Remi."

**DISTRICT 3
JOHN WAMPLER**



**Greer, Harmon, Jackson,
Kiowa and Tillman**

John M. Wampler serves as the District Attorney for the Third Judicial District which is made up of Jackson, Kiowa, Greer, Harmon and Tillman counties. Wampler was first elected to the position in 1990 and has been reelected six times without opposition. He is currently serving his 25th year as District Attorney.

Wampler, age 61, was born in Altus and raised in the Duke community where he has lived all his life. Five generations of his family have made Southwest Oklahoma their home. His parents, the late Wilbur and Lillian Wampler, were in the grocery business in Duke for many years. After graduating from Duke High School in 1971, Wampler attended Southwestern Oklahoma State University in Weatherford where he graduated in 1974 with a B.A. degree in Political Science. That fall, he entered the University of Oklahoma College of Law and graduated with a Juris Doctor degree in 1977.

While attending the OU College of Law, Wampler was employed on the staff of Governor David L. Boren until completing law school when he returned to Altus and entered the private practice of law. He practiced law for the next thirteen years with the late Bob Scarbrough until deciding to run for District Attorney.

Wampler served as the Municipal Judge for the City of Altus for over eleven years, also serving as Municipal Judge for Hollis and City Attorney for the Town of Blair. He also served a term on the Duke Town Board. His civic service has included serving on the Jackson County United Way Board of Directors, Jackson County Red Cross Board of Directors, Altus Jaycees, Duke and Altus Chambers of Commerce, Jackson County Bar Association and the Oklahoma Bar Association. He has served as President of the Duke Chamber of Commerce, Duke Alumni Association and the Jackson County Bar Association.

Since becoming District Attorney, Wampler has been chosen by his fellow prosecutors to serve three terms as President of the Oklahoma District Attorneys Association and Chairman of the Oklahoma District Attorneys Council. He serves on the Board of Directors for the National District Attorneys Association and previously served on the Oklahoma Sentencing Commission. In 2009, he was named "Prosecutor of the Year" by the Texas and Southwestern Cattle Raisers Association.

In 1999, Wampler married Kendi Brown of Wichita Falls, Texas, and they make their home in Duke where they also enjoy a small farm and ranch operation. They have four sons; Scott and his wife Tasha, Chris, Konnor, Cameron and three grandchildren, Grace, Sadie and Landon.

The Wampplers are members of the Duke First Baptist Church. John has served his church as Sunday School Teacher, Sunday School Director, RA Leader and as a Deacon. He also served a term on the State Board of Trustees of the Oklahoma Baptist General Convention.

**DISTRICT 4
MIKE FIELDS**



**Blaine, Canadian, Garfield,
Grant and Kingfisher**

Mike Fields graduated from high school in 1990 and attended the University of Oklahoma where he played football for four years, earning the Jay Meyers Award for the top freshman student athlete, Academic All-Big Eight selection, and the Big Eight Medal Award as one of the conference's outstanding senior student athletes. He graduated with honors in 1994 with a degree in Political Science and went on to graduate OU law school in 1997.

Fields became an Assistant District Attorney immediately upon graduation from law school. He won his first election as District Attorney in 2010 and was re-elected in 2014. He has prosecuted all types of criminal cases from misdemeanors to death penalty murder cases. He has successfully prosecuted hundreds and hundreds of cases including many jury trials. Fields was instrumental in the design and development of the nation's first multi-jurisdictional juvenile drug court, as well as the development of the adult drug courts in District 4.

He was named Oklahoma's best drug prosecutor in 2004 by a statewide association of law enforcement officers, and Oklahoma's best prosecutor in 2008 by the Oklahoma District Attorneys Association. He

was appointed by Governor Mary Fallin to the OSBI Commission in 2011. He serves on the board of directors of the Oklahoma District Attorneys Association. Fields is a member of Emmanuel Baptist Church, Enid. He has served on the board of directors at several youth services agencies. He has been a rotary club member since 1999, past president of Enid club, and Paul Harris Fellow. Fields also coaches little league football.

Fields and his wife Jennifer have two children, Hudson, age 13, and Ryan Grace, age 8.

**DISTRICT 5
FRED SMITH**



Comanche and Cotton

Fred Smith graduated from Oklahoma State University in 1976. While working as a Juvenile Probation Officer with the Comanche County Juvenile Bureau, he began attending Oklahoma City University School of Law at night. He drove from Lawton to Oklahoma City four nights a week for 3 ½ years, graduating in 1982. During this time, as soon as possible, he went to work as a Licensed Legal Intern for the District Attorney's Office.

After passing the Bar, Smith was in private practice until 1986 when newly elected District Attorney, Robert Schulte, asked him to re-join the office as First Assistant District Attorney. He served in that position for 22 years before being appointed District Attorney by Governor Brad Henry. He was elected to the office in 2010 and reelected 2014.

**DISTRICT 6
JASON HICKS**



**Caddo, Grady,
Jefferson and Stephens**

Jason Hicks is a Grady County native. His father, Ed Hicks, owned and operated well-known Eduardo's Restaurant in Chickasha. Hicks graduated from Chickasha High School and Cameron University before earning his law degree from the University of Oklahoma.

He was elected to the office of District Attorney in 2010, and re-elected in 2014. Hicks previously served District 6 for three years as an Assistant District Attorney, handling both misdemeanors and felonies, and was formerly a family law attorney with the Ellis, Buckholts, and Hicks law firm in Duncan.

Hicks and his wife, Marla, have been married 16 years. They have three children.

**DISTRICT 7
DAVID PRATER**



Oklahoma

David Prater began his law enforcement career at 19 years of age when he was hired by the Cleveland

County Sheriff's Office as a Deputy Sheriff. At the age of 20, Prater became the youngest cadet ever to graduate from the Norman Police Academy. During his time with the NPD, he was a dedicated and respected Master Police Officer. In addition to his patrol duties, he was a member NPD's Tactical Unit, Underwater Rescue and Recovery Team and the Norman Police Department's Pistol Team. Additionally, he was responsible for training other officers in patrol techniques, firearms, and Emergency Vehicle Operations and was awarded more than 20 commendations from Norman's Chief of Police.

In 1988, Prater left the police department to complete his Law Enforcement Administration Degree from the University of Oklahoma. In 1991, he began law school at the University of Oklahoma, graduating in just two and a half years. From 1993 until 2001, he served Oklahoma County and the state as an Assistant District Attorney under Bob Macy and as an Assistant Attorney General, in the Grand Jury Unit, under Attorney General Drew Edmondson.

Prater was elected District Attorney of Oklahoma County in 2006, and was reelected in 2010 and 2014.

**DISTRICT 8
BRIAN HERMANSON**



Kay and Noble

Brian T. Hermanson serves as the District Attorney for the Eighth Judicial District. Hermanson was first elected to the position in 2010 and was re-elected in 2014. Hermanson was

born in Milwaukee, Wisconsin and grew up in Green Bay during the Lombardi years. While at Green Bay East Jr. High School, he was selected District Attorney for the day and spent a day working in the Brown County District Attorney's Office. He attended college at Carroll College, graduating in 1975 with majors in Political Science and History and a minor in Business. He then went to the University of Oklahoma – College of Law where he graduated with a Juris Doctorate degree in 1978. While in law school, he served as Student Bar Association President and was a member of the National Moot Court Team.

While attending law school, Hermanson was employed at the Municipal Attorney's Office in Oklahoma City for one year and another in Preston Trimble's District Attorney's Office in Cleveland County. After law school he went to Ponca City where he joined the firm of Phipps, Johnson, Holmes and Hermanson. In 1987 Hermanson went out on his own in solo practice where he remained until he became District Attorney. From 1999 until 2004, he served as Lead Counsel in the defense team defending Terry Lynn Nichols in the State trial of the Oklahoma City Bombing case.

Hermanson has been active in the civic and Bar service. He has served as Chair of the Ponca City YMCA, Rotary, Community Christian Church Board of Directors, Ponca Playhouse Community Theater, Kay County Council for Challenged Citizens, Kay County Chapter of the American Red Cross, Roosevelt PTA, Arts Adventure, Gifted and Talented Parent Advisory Board, Instrumental Music Parents Association, Kay County Republican Party and the Kay County Bar Association. Hermanson has been very active with both the American Bar Association and the Oklahoma Bar Association. In the ABA he served as Chair of the Standing Committee on Gavel

Awards, as Governor of the 10th Circuit of the Law Student Division, Chair of many committees and served two terms on the Leadership Council of the General Practice Section.

In the OBA he served as President of the Young Lawyers Division, Chair of the Lawyer Referral Service, Long-Range Planning Committee, Committee on Unified Bars, and served as Chair of the General Practice Section, Litigation Section, Law Practice Management and Tech Section and the Criminal Law Section. He also served on the Board of Editors of the OBA. Hermanson served three terms on the OBA Board of Governors and was elected the OBA Vice President in 1988. Hermanson also served as President of the Oklahoma Bar Foundation; President of the Oklahoma Criminal Defense Association, President of the Oklahoma Chapter of the American Board of Trial Advocates and for the last twenty years has served on the Oklahoma Court of Criminal Appeals Committee for Uniform Jury Instructions.

Hermanson currently serves as Chair of the Technology Committee of the District Attorneys Council and as Chair of the Benevolence Committee and the Board of Directors of the Oklahoma District Attorneys Association.

In 1981 Hermanson married Ruslyn Evans of Red Rock, Oklahoma, and they make their home in Ponca City where they raise horses. They have two daughters; Brianna, who lives in Massachusetts and Charley, who works for District Attorney Rex Duncan in Pawhuska, Oklahoma.

Hermanson and his family are members of Community Christian Church where Brian has served his church as Sunday School Teacher, Elder, Trustee and Chair of the Board.

**DISTRICT 9
LAURA AUSTIN THOMAS**



Logan and Payne

Laura Austin Thomas received her Bachelor of Arts in Psychology in 1979, and her Master of Science in Corrections with an emphasis in Treatment and Administration and Juvenile Delinquency in 1981, both from Oklahoma State University. She received her Juris Doctorate from the University of Oklahoma in 1984. She has been a prosecutor for 30 years. After interning in Cleveland County for a year, she began as an Assistant DA in Comanche County. In early 1987, she began her duties as a prosecutor for Logan County prosecuting criminal cases as well as juvenile deprived and delinquent cases.

In 2013, she received the prestigious Attorney of the Year Award, presented by the Oklahoma Child Support Enforcement Association, for recognition as an effective advocate for child support programs throughout the state.

Thomas is a 2006 graduate of Leadership Stillwater class of XVII, a member of the First Presbyterian Church of Stillwater where she has served as an Elder and a Trustee. She has also been actively involved for the past 15 years with the YMCA, Club, and Stillwater High School swim teams as a volunteer parent. Laura has been married to George Thomas, a wildlife biologist for the Bureau of Land Management, for 26 years. Together they have three daughters: Michelle, Darci, and Alexx.

**DISTRICT 10
REX DUNCAN**



Osage and Pawnee

Rex Duncan enlisted in the Oklahoma Army National Guard at 17, during his junior year at Perry High School. He served as an enlisted infantryman, infantry officer and Special Forces officer. In 1994, Duncan graduated from the U.S. Army John F. Kennedy Special Warfare Center and School at Ft. Bragg, North Carolina, where he earned the Green Beret. In 2002-2003, Rex deployed with the Special Operations Command-Central (SOCCENT) to the Middle East and Horn of Africa. Duncan was promoted to colonel in 2009, and from 2011-2012 commanded an Oklahoma National Guard senior combat advisor team in Afghanistan. In 2013, he retired after 34 years of service. His awards and decorations include the Legion of Merit, Bronze Star Medal, Special Forces Tab, Ranger Tab and Master Parachutist Badge.

Duncan is a 1988 graduate of OCU Law School. He was elected to the Oklahoma House of Representatives in 2004, and served as the House Judiciary Committee Chairman from 2006-2010. In 2008, Duncan received his Master's Degree in Strategic Studies from the U.S. Army War College.

Duncan was elected District Attorney in 2010 and was reelected without opposition in 2014. He and his family live in Osage County.

**DISTRICT 11
KEVIN BUCHANAN**



Nowata and Washington

Kevin D. Buchanan was born in Stillwater, Oklahoma in 1959. He attended and graduated from C.E. Donart High School in Stillwater in 1977 and received his B.S. in Business Administration from Oklahoma State University in 1981. Buchanan attended the University of Tulsa College of Law and obtained his J.D. in 1984. While in law school, Buchanan began working for the firm of Garrison, Brown, and Carlson in Bartlesville in 1982.

Upon graduation, he moved to Bartlesville and joined the firm and later became a partner. He remained with the firm for 26 years until being elected District Attorney of District 11 in 2010. While in private practice, Buchanan handled all types of litigation, but always considered criminal law his favorite. Along with his partner, Alan Carlson, Buchanan filed the Writs that led to the Oklahoma Court of Criminal Appeals decision in *Allen v. District Court*, and the Legislature's adoption of the Criminal Discovery Code. Buchanan has also argued before the Tenth Circuit Court of Appeals, the Oklahoma State Supreme Court, and the Oklahoma Court of Criminal Appeals.

Buchanan and his wife, Mary Beth, have two daughters, Brittany, 27 and Kelsey, 25. Outside the office, Buchanan's free time is spent hunting, cooking and performing "do it yourself" projects of every nature.

**DISTRICT 12
MATTHEW BALLARD**



Craig, Mayes and Rogers

Matt Ballard grew up in Oologah and graduated from Claremore High School in 1995. He attended OU on a National Merit Scholarship and graduated summa cum laude in 1999. While in law school at OU, Ballard interned for the Oklahoma County District Attorney's office. After graduation, Ballard worked as an Assistant DA until 2006, when his first daughter was born and he and his wife moved back to Claremore to be closer to family.

Ballard began his career as a prosecutor in the juvenile division, before moving on to prosecuting major felonies and homicides. During his last year in the Oklahoma County DA's office, Ballard was named to the prestigious Special Victims' Unit, where he was responsible for prosecuting sex crimes, crimes against children and homicides.

Ballard is active in the community and currently sits on the Board of Directors for Rogers County Youth Services, where he served as president-elect in 2010 and president in 2011. Ballard also serves on the Board of Directors for Rogers County Work Training Center, a non-profit division of Home of Hope. In 2012, Ballard completed the Claremore Citizens Police Academy and is an alumni member.

Ballard and his wife, Traci, were married in 2002 and have three children. The family attends church at the First United Methodist Church in Claremore.

**DISTRICT 13
KENNY WRIGHT**



Delaware and Ottawa

In 2008 *Kenny Wright* joined the District Attorney's Office as an Assistant District Attorney. His responsibilities have included the prosecution of all types of crimes focusing on major violent crimes and narcotics. He is a member of the Oklahoma Association of Narcotics Enforcers and was Region II Prosecutor of the Year in 2010-2011. Wright earned his B.B.A. and J.D. from the University of Oklahoma. He worked briefly for a law firm in Northeast Oklahoma before starting his own firm with his wife Christy in Jay, where he practiced criminal defense for almost 12 years before joining the District Attorney's Office. He successfully sought election to the office of District Attorney in 2014.

Wright serves on the Parish Council at St. Elizabeth Catholic Church in Grove and is also a Eucharistic Lay Minister, a CCD Instructor for 7th and 8th grade children, and an Instructor for RCIA. He is also a member of Leadership Oklahoma, Class XXVIII. He has served as a member and clerk of the Grove Public Schools Board of Education and as treasurer of the Grand Lake Arts and Humanities Council. While at the University of Oklahoma, Wright was a member of the RUF/NEKS, the oldest male spirit organization in the country.

Wright is married to Christy and they have two sons, Kenny and Lincoln, ages 14 and 12. He enjoys many hobbies including sports, camping and hiking, and board games.

**DISTRICT 14
STEVE KUNZWEILER**



Tulsa

Steve Kunzweiler is a 25-year career prosecutor whose number one priority is public safety and the prosecution of violent criminals. He has sent hundreds of dangerous criminals to prison for murder, armed robbery, child abuse, rape and other violent crimes as an Assistant District Attorney. He has a passion for prosecution of crimes against children and will focus on early intervention to reduce child abuse and juvenile delinquency.

Kunzweiler is a strong defender of victims' rights. He developed the DA's program providing therapy dogs to comfort child abuse victims and accompany them to court. He established a no-tolerance protocol for drunk drivers whose actions injure or kill others. He also implemented a policy in the DA's office prescribing mandatory prison time for felons using firearms.

He serves on the Governor's Impaired Driving Prevention Advisory Council, the board of the Victims Impact Panel, and the state Attorney General's Task Force to Combat Human Trafficking.

Kunzweiler has been married 26 years to Tulsa Veterinarian Dr. Christine Kunzweiler and they have three daughters. Steve and his family are members of Christ the King Parish, Catholic Church in Tulsa.

Kunzweiler graduated with a Juris Doctorate from the University of Tulsa School of Law in 1988.

**DISTRICT 15
ORVIL LOGE**



Muskogee

Orvil Loge lives in Muskogee with his wife, Misti. They have nine children and two grandchildren. He is a dedicated member of the community, having practiced law locally for 20 years before being elected to serve as Muskogee County District Attorney in 2014. From coaching youth sports, to being a member of the Masonic Lodge, to worshipping at New Community Church, Loge aspires to adhere to the highest standards as District Attorney.

**DISTRICT 16
JEFFREY SMITH**



Latimer and LeFlore

Jeff Smith has had the privilege of serving as District Attorney of District 16 since January, 2007. He received a B.S in Education from Miami University in Ohio in 1981 and a J.D. from the University of Tulsa School of Law in 1984. An attorney for 29 years, Smith has spent most of his career in the practice of criminal law, but finds that the most rewarding work that he has done has been representing the citizens of his district as both an Assistant District Attorney and District Attorney.

Smith has served on the Oklahoma Domestic Violence Fatality Review Board as the DAC representative since July, 2007. He was honored by his peers in 2012 as the recipient of the ODAA's David Moss Memorial Award as Outstanding District Attorney.

Smith serves as board president for LeFlore County Youth Services, Inc., as well as several other local boards. He is the president of the Eastern Oklahoma Gideon Camp and a Sunday School teacher at Southside Baptist Church in Poteau.

He and his wife Sherri have 4 children, Tyler, Devin, Lacy and Katy.

**DISTRICT 17
MARK MATLOFF**



**Choctaw, McCurtain and
Pushmataha**

Mark Matloff was elected in 2009 to serve as District Attorney for District 17. Originally from Enid, he served as an Assistant District Attorney for 5 years before being elected. Matloff and his wife, Kathryn, have one son.

**DISTRICT 18
FARLEY WARD**



Haskell and Pittsburg

While obtaining a Business Administration degree at Oklahoma State University, *Farley Ward* married Machelle Casto of Cashion, Oklahoma in 1976 and went on to graduate from the University of Oklahoma College of Law in 1980.

Ward began his law career with John Norman Law Firm in Oklahoma City before moving back home to Stigler, Oklahoma and starting a private practice. He soon took the job of Assistant District Attorney, serving nearly 13 years. In 1997, he and his family moved to Poteau where he continued prosecuting as First Assistant DA and Director of the District 16 Drug Task Force.

Before being elected to the office of District Attorney, Ward served as an Assistant District Attorney of Muskogee County. While he maintains a ranch and small cattle herd near Tamaha in Haskell county, he and his family live in McAlester.

Ward and Machelle are the parents of six children: John, Erin, Daniel, Alyssa, Robert and Stephanie.

**DISTRICT 19
EMILY REDMAN**



Atoka, Bryan and Coal

Emily Redman joined the District Attorney's Office in 1992 as a law clerk while she was a student at the University of Oklahoma School of Law. In 1994, Redman became an Assistant District Attorney and made the decision to become a career prosecutor. In 2003, Redman was appointed First Assistant by former

District Attorney, Mark Campbell. Governor Brad Henry appointed Redman to the position of District Attorney on October 7, 2005. In 2006, 2010, and 2014, Redman was elected to serve as District Attorney.

During her career, Redman has prosecuted a wide range of cases, with a special emphasis on violent crimes, including crimes against children.

Redman currently serves on the Coordinated Community Response Team for the investigation and prosecution of domestic violence; she teaches legal classes to potential law enforcement officers and has served as an officer for the Bryan County Peace Officers Association and is a member of the Bryan and Oklahoma Bar Associations. In addition to her professional responsibilities, Redman is active in the community, serving on several boards and committees.

She currently resides in Durant with her husband, John Redman, a Rural Development Specialist for the U.S. Department of Agriculture, and their two sons, A.J. and Walker.

**DISTRICT 20
CRAIG LADD**



**Carter, Johnson, Love,
Marshall and Murray**

Craig Ladd graduated from Texas Tech University in 1993 with a Bachelor's Degree in English and OU College of Law in 1996 with a Juris Doctorate. Shortly after graduation, Ladd took a position as Assistant District Attorney in Carter County.

During his time as Assistant District Attorney, he served as first chair for the State of Oklahoma in more than 50 felony jury trials. After serving 9½ years as an Assistant District Attorney in Carter County, Ladd was appointed to the position of District Attorney for the 20th District in February of 2006 following the death of his predecessor and friend, Mitch Sperry. District 20 includes the five counties of Carter, Johnston, Love, Marshall, and Murray.

During his nine years as District Attorney, he has served as first chair for the State of Oklahoma in more than 25 felony jury trials. Throughout his entire time as a criminal prosecutor, Ladd has represented the State in more than 75 felony jury trials, obtaining guilty verdicts in more than 95% of the cases in which he served as first chair. These trials involved crimes such as murder, manslaughter, rape, lewd acts with children, robbery, methamphetamine manufacturing, trafficking of drugs, and distribution of drugs. He has also successfully argued and prevailed during his two appearances before the Oklahoma Court of Criminal Appeals.

Ladd and his wife, Meredith, have been married for over 17 years and have three sons: Chandler, Alec, and Collin. Meredith is an occupational therapist by profession and has been the Rehab Director for Mercy Hospital in Ardmore for the past 10 years. Craig and his family are active members of the First United Methodist Church in Ardmore. He and Meredith have served, and continue to serve, on numerous boards in Ardmore. Craig is very much devoted to Meredith and their three sons. He spends his spare time involved in family activities, traveling, exercising, and following OU football as well as Thunder basketball.

**DISTRICT 21
GREG MASHBURN**



Cleveland, Garvin and McClain

Greg Mashburn graduated from Idabel High School in 1990. He attended Harding University in Arkansas on a football scholarship, graduating in 1995. He then obtained his Juris Doctorate from the University of Oklahoma School of Law in 1998.

Mashburn spent a decade learning to incarcerate criminals as an Assistant District Attorney in Oklahoma County. There he built an impressive record, becoming a Division Chief just six years after he began his career. Since his first term in 2007, Mashburn has re-organized the office to better manage cases and ensure victims are properly cared for in the criminal justice system. In 2008, after just one year in office, Mashburn was named Outstanding District Attorney for the State of Oklahoma. In addition, his office and staff have received statewide awards and recognition for their excellence. Mashburn was reelected in 2010 and 2014.

He has held leadership positions in statewide organizations, serving as President of the Oklahoma District Attorneys Association and Chair of the District Attorneys Council. He continues to serve on the three person executive committee for the ODAA Board.

Mashburn began his third term as District Attorney in January of 2015. For the past 19 years, he and his family have lived in Norman.

Mashburn is a member of Alameda Church of Christ and also a member of Norman Legacy Rotary.

**DISTRICT 22
CHRIS ROSS**



Hughes, Pontotoc and Seminole

Chris Ross graduated from the University of Oklahoma College of Law in 1982. He began working as an Assistant District Attorney upon graduation, serving in Comanche County until he left in 1983 to become an assistant in Pontotoc County. He served in that position until he was appointed District Attorney January 1, 2008.

As an assistant, he was the supervisor of the Narcotics and Violent Crime Task Force. He served as the Drug Court Prosecutor for Pontotoc County, which was twice named the state's Outstanding Drug Court. Ross prosecuted all narcotics cases, sex crimes, crimes against children, and homicides that occurred in Pontotoc County from 1989 until 2008. He has prosecuted 49 homicide cases to completion.

In 2004 he was named Outstanding ADA for the State of Oklahoma, in 2008 he was awarded the Oklahoma State Bureau of Investigation's Award for Law Enforcement, and in 2009 he was named Outstanding D.A. for the State of Oklahoma.

Ross is a frequent presenter for the Oklahoma District Attorneys Association, and was one of a handful of prosecutors from across the country asked by the FBI to participate in writing a manual for the

investigation and prosecution of “no body” murder cases.

**DISTRICT 23
RICHARD SMOTHERMON**



Lincoln and Pottawatomie

Richard Smothermon began his legal career by serving four years in the Oklahoma County District Attorney’s office assigned to the Felony Narcotics Division, then took a position as an Assistant District Attorney for the Payne and Logan County District Attorney’s office. Less than one year after taking that position, he was appointed First Assistant District Attorney, where he served for over two years before leaving to join a private firm.

During his time in private practice, his fields of emphasis included oil and gas law, family practice, and criminal defense. In 2002, he was elected District Attorney for the 23rd Judicial District, which covers Pottawatomie and Lincoln Counties, where he serves today. In 2007, he received the honor of being selected Outstanding District Attorney.

Smothermon has served on the Board of Directors for Legal Aid of Western Oklahoma, instructed at the CLEET Reserve Officers Academy, and served as a volunteer for Oklahoma Lawyers for Children. He is a past President of the Oklahoma District Attorneys Association and past Chairman of the District Attorneys Council. He currently sits on the Board of Directors for the Oklahoma District Attorneys Association, is the Chair of the Justice Assistance Grant Board, and is the Governor’s

Appointee to the Oklahoma Commission on Children and Youth.

**DISTRICT 24
MAX COOK**



Creek and Okfuskee

Max Cook was first appointed to the office of District Attorney by Governor Frank Keating in 1997. Max became an Assistant District Attorney in 1989 after closing his solo law practice in Sapulpa.

Cook’s wife Karen is a pharmacist, and they have two children. Max likes scuba, motorcycles, and most sports.

**DISTRICT 25
ROB BARRIS**



McIntosh and Okmulgee

Rob Barris was born and raised in Okmulgee. He attended OU and graduated in May 1979 with a BA in Political Science, then graduated the OU School of Law in May 1982.

He spent a year in private practice before joining District 25 as Assistant District Attorney in Child Support in July 1983. He moved to Eufaula in 1985 where he served as ADA for 11 years before becoming a First

Assistant District Attorney in January 1987. He worked as Chief of Multicounty Grand Jury Unit for the Attorney General’s Office under Drew Edmondson from January 1997 to December 21 1998. In January 1999, Barris returned to District 25 as First Assistant. He ran unopposed in 2010 and again in 2014.

Barris has tried about 250 jury cases, ranging from capital murder to DUI. Barris was named Outstanding Assistant District Attorney in 1989 and again in 2003 by ODAA.

He and his wife of 32 years, Holly, live in Okmulgee and have a daughter, Jennifer, and a son Tyler who passed away May 2, 2002. They attend the First Baptist Church of Okmulgee where he teaches Sunday School and holds the title of Deacon. He is also a member of Gideons International and Vice-Chairman of the Executive Committee of Okmulgee County Family Resource Center.

**DISTRICT 26
CHRIS BORING**



Alfalfa, Dewey, Major, Woods and Woodward

Chris Boring has been attracted to the study of law since he was a young boy. While watching his father serve as District Attorney, Boring studied political science at OSU, then went on to earn his law degree from OCU. He practiced at a law firm for a few years before becoming Woodward’s Assistant District Attorney in 2011. Boring was elected District Attorney in 2014, and assumed office in November 2014, after the retirement of his predecessor.

**DISTRICT 27
BRIAN KUESTER**



**Adair, Cherokee,
Sequoyah and Wagoner**

While growing up in a small town in rural Missouri, **Brian Kuester** worked with his parents to manage the family farm. After graduating from high school, Kuester pursued a career in

law enforcement. He graduated from Central Missouri State University with a Bachelor of Science degree in Criminal Justice.

He received his Juris Doctorate and graduated sixth out of his class of 180. After working for 3 years in civil litigation, Kuester returned to the field of criminal justice. In 2003, he took a job at the Tulsa County District Attorney's Office as an Assistant District Attorney. While there he tried a variety of felony cases including murder, robbery, child abuse and manufacturing methamphetamine. For a year and half he served as the Director of the Crimes Against Children Unit

working closely with police and DHS child abuse investigators on hundreds of cases as a member of the District Attorney's Child Abuse Task Force.

Kuester currently resides in Broken Arrow with his wife Laura, who is a mental health therapist in private practice, and their three children. Brian enjoys coaching his son's baseball team, playing the guitar, and reading and playing with his kids. Kuester is an active member of The Church at Battle Creek where he is a Dynamic Marriage course facilitator, and is involved in the children's ministry.

In Loving Memory of **STEPHEN BOOKER**

The Oklahoma prosecutorial community mourns the passing of Assistant District Attorney **Stephen Earl Booker**. Stephen, age 40, of Altus, passed away March 20, 2015 at his residence in Altus. Services were held in his honor March 24, 2015 at the First Baptist Church in Altus.

Stephen was born in Altus on November 1, 1974, to Earl and Shirley (Wyatt) Booker. Stephen attended Altus public schools all of his life, and graduated from Altus High School in 1993. On June 5, 2001, Stephen married the love of his life, Robin (Murphy) Thompson, and they spent the next fourteen wonderful years together, until his untimely death. Stephen earned his bachelors degree from Southwestern Oklahoma State University, and completed his Juris Doctorate at Oklahoma City University School of Law. He was admitted to the Oklahoma State Bar in 2004. From February 1998 until 2004, Stephen worked for the Jackson County Sheriff's Depart-

ment. After graduating from law school, Stephen worked for a short time with the Oklahoma Indigent Defense System. In December 2004, Stephen began his career with the Jackson County District Attorney's Office where he served as an Assistant District Attorney.

Stephen loved his work and his coworkers at the Jackson County Courthouse. He took special pride in protecting the rights of abused and neglected children. Stephen loved reading, studying history, and traveling with his wife, Robin. He was also an avid University of Oklahoma Football and Dallas Cowboys fan. Most of all, he loved spending time with his family and friends. Stephen was a dedicated public servant who will be dearly missed by his friend, family, and community.



BENEFITS OF A COORDINATED COMMUNITY RESPONSE

to SEXUAL VIOLENCE

Sexual violence usually occurs in private, but like all crime, it impacts victims and entire communities. Several different social systems—medical, legal (law enforcement and prosecution), and victim advocacy—are available to respond to crimes of sexual violence to assist victims and protect communities. Survivors of sexual violence often turn to any or all of these social systems for support and to seek justice at various points during their healing process. While their systems each have different goals, they all require victim cooperation to function. When they work together in a collaborative way to provide a coordinated response to sexual violence, they provide better services to victims and are more effective in protecting communities.

Notwithstanding the availability of a range of assistance, rates of survivors utilizing services remain low. Studies show that the rate of accessing social services ranges between 12 and 43 percent. Similarly, statistics from the United States Department of Justice indicate that 31 percent of all rapes and victimizations were reported to police. The literature suggests four primary reasons why survivors do not access available systems: (1) the survivor's psychological response to rape, (2) the degree of rape severity, (3) fear of retaliation by the assailant, and (4) fear of disbelief by the people who work in the system.

When survivors do not access needed medical and victim advocacy services, their mental and physical health concerns may not be treated and can lead to long-term complication that include posttraumatic stress, complications from sexually transmitted infections, and a myriad of other health sequelae. Victim advocates are in a unique position to provide

confidential emotional support and counseling, criminal justice information and advocacy, and referrals to other social services and legal service providers.

Failure to engage the legal system can result in lost opportunities to pursue civil legal remedies such as a protective order or restitution, crime victim compensation funds to compensate for losses incurred as a result of the assault, effective safety planning, prevention of future crimes against the victim and others, and the supervision and management of offenders.

Current studies emphasize the importance of a multidisciplinary response to sexual assault, particularly as a way to help survivors understand the breadth of available community resources and services. Campbell found that survivors working with advocates had higher rates of reporting to law enforcement and higher rates of healthcare service utilization, including physical examination and sexually transmitted infection prophylaxis.

Furthermore, they reported experiencing less secondary victimization from the medical and legal service providers they encountered. A study of Sexual Assault Nurse Examiner (SANE) programs has illustrated that they can positively contribute to increased service utilization, and ultimately impact prosecution rates, in part because of strong, collaborative relationships with law enforcement and victim advocacy. In examining the positive experiences survivors had reported with a particular SANE program in the study, its authors remarked:

The program links survivors to

advocacy and support services at the rape crisis center (with which this SANE is organizationally linked) so that they have the resources they need to focus on their own well-being and recovery. This attention to helping survivors heal indirectly affected their willingness to participate in legal prosecution. When survivors are not as traumatized, they are more willing and capable of participating in the prosecution process. In addition, survivors often had questions about the medical forensic exam and the process of criminal prosecution, and when SANE program nurses and advocates provided patients with this information, it gave survivors more hope and confidence about their legal cases, which also indirectly contributed to increased victim participation.

Many communities understand that need for collaboration among social systems and have formerly created Sexual Assault Response Teams (SART) to provide coordinated responses to sexual violence. These SARTs aim to provide victim-centered support and services to survivors. Remaining mindful of the reasons why survivors may not turn to social systems, it is especially important for SARTs to make services more accessible to survivors' needs and create a safe place for them to turn. The medical, legal, and victim advocacy systems must work together to educate each other, make appropriate referrals, and build trust with each other, survivors, and other systems.

Hospital emergency departments and SANE programs can examine, document, and treat injuries; provide information about and prophylaxis for pregnancy and sexually

transmitted infections; collect forensic evidence; provide mental health treatment or referrals; and offer discharge instructions. Victim advocates may provide a survivor with medical, legal, and court advocacy, engage in crisis intervention, and offer counseling. The legal system can help address a survivor's immediate safety concerns, inform them of their legal rights, and protect them and the community by seeking to hold offenders accountable in court.

Because multidisciplinary responses such as SARTs serve such a vital function in the community, understanding their needs and challenges is critical. Recently, the

National Sexual Violence Resource Center (NSVRC) conducted a national needs assessment of SARTs around the United States to help inform the creation of a forthcoming SART toolkit. Respondents to the survey mentioned a host of topics, on which SART members wanted more information, issues such as alcohol mentioned. Respondents also reported wanting materials to help enhance long-term collaboration among SART members and information on funding and sustainability to ensure continuation of the organized response.

The benefits of responding to sexual violence through a multidisciplinary approach yield favorable returns for

all involved. The research has shown that when system work together in a collaborative way to provide a coordinated response to sexual violence, they work better and smarter, encourage victims to access services, are more effective in holding offenders accountable, and ultimately, protect victim and communities.

Reprinted with Permission from AEquitas: The Prosecutors' Resource on Violence Against Women (previously published as Christopher Mallios & Jenifer Markowitz, Benefits of a Coordinated Community Response to Sexual Violence, 7 STRATEGIES in Brief (Dec. 2011)).

MENTAL ILLNESS VS. MALINGERING

How Tarrant County prosecutors overcame the challenge of two competency trials and an insanity defense to secure a murder conviction and 45-year sentence for a wife who killed her estranged husband

Excerpted from an article by Michelle Dobson and Sean Colston, Assistant Criminal District Attorneys, Tarrant County, Texas

Arthur and Colette Reyes were married for more than 20 years. They had two daughters, Naomi and Gabby. In October 2009, Arthur and Gabby moved out of the house in anticipation of an impending divorce. Naomi was off at college. On Sunday November 22, 2009, Arthur came over to the house to collect some of his more valuable belongings because Colette was going to be served with divorce papers the following week.

Arthur dropped Gabby off at her best friend's house nearby and went to the house to gather items in the garage. After about an hour, Arthur called Gabby to come and help him. She arrived minutes later to find her father lying in a pool of blood in the garage.

Gabby called 911 while she ran back to her friend's house and told the 911 call-taker that she believed her mother shot her dad.

When police arrived, they found Arthur dead from an apparent gunshot wound to the head. Colette entered the garage and calmly approached Arthur's body. When police asked her who shot the victim, she told them, "I did." When they asked her where the gun was, she said, "I left it next to him." Colette's sister and her family were in town visiting from California, and told police they were inside the house and Colette was in the garage with Arthur when they heard the gunshot.

Once Colette was taken into custody, she began behaving bizarrely. She mumbled to herself about not knowing what happened. When Detective Ben Lopez tried to go over

her Miranda rights, she told him she didn't have any rights, and wouldn't answer questions about whether she understood her rights. She also told Detective Lopez her name was Ann Brown, the name of a woman Arthur had met online and whom Colette believed was his girlfriend.

Colette was taken to the City of Arlington Jail, where she began stripping off her clothes and chanting. She spent a little over a week in jail before her defense attorney requested a bond reduction hearing and her bond was lowered. Once she bonded out, she and her defense lawyer immediately gave an interview with the local news. They claimed Colette had been abused by Arthur throughout their marriage.

Our First Work on the Case

While preparing the case for presentation to the grand jury, we

considered possible self-defense claims. Arthur had received a Class C assault by contact ticket in 2007 for slapping Colette. He and Gabby also received assault by contact tickets from an incident on October 17, 2009. But when we spoke to Naomi and Gabby, they told us that their mother had been the abusive one. They said that Colette had fits of rage and became verbally and physically abusive. Colette was upset about Arthur's supposed girlfriend, and she had come into Gabby's bedroom, pulled out her breasts, and started saying things about Jesus. Gabby and Arthur tried to escort Colette out of the room and Colette started hitting her daughter with a brush.

The girls told us that they had been told that Colette had been diagnosed with paranoid schizophrenia when they were living in California in the early '90s. We subpoenaed Colette's medical records from various doctors in Arlington and found that she was treated for numerous physical ailments, but there was no diagnosis or treatment for paranoid schizophrenia.

We were continuing to prepare our case when Arlington police discovered a cassette tape recorded the night of the murder. When Detective Lopez listened to the tape, we were all shocked at what he discovered: The murder was captured on tape. The tape revealed that there was no fight and no self-defense—it was simply a conversation and then a murder.

We sent the tape to a forensic audio-video analyst, who enhanced the audio and was also able to differentiate the voices, create a transcript, and tell us that based on the sounds and movement on the tape, it appeared that Colette was carrying the tape recorder on her person.

Competency Questions

Colette was indicted for the murder of her husband on March 1, 2010. The

case went through the normal court process and was finally set for trial. As we approached a trial setting in September 2011, the defense voiced concerns to us about Colette's competency to stand trial. Because the defense was raising the issue of incompetency, they had the burden to prove it by a preponderance of the evidence. In Texas, a person is incompetent to stand trial if she does not have sufficient present ability to consult with her lawyer with a reasonable degree of rational understanding or does not have a rational as well as factual understanding of the proceedings against the person.¹ Colette's defense attorney said that he had sent her to a couple of doctors who doubted her competency, and Dr. Barry Norman, a court-appointed psychologist, had conducted a formal evaluation and found her to be incompetent. At that point we did not contest the finding of incompetency but in retrospect, we should have contested it because a competency evaluation is generally a routine exam. But as with all things involving Colette, nothing about this case was routine.

Dr. Norman conducted a basic competency exam, which consisted of an interview with Colette and a review of some records. Based on his examination, Dr. Norman found Colette incompetent, and she was taken into custody to await transport to the North Texas State Hospital in Vernon. As soon as she was told that she was going into custody, Colette collapsed in the courtroom. She kept her eyes clenched shut and pretended to be unconscious. Medical staff evaluated her, but did not find anything wrong with her. Colette was transferred to Vernon in November 2011, where she was treated with medication and went through court competency education, stress and anger management, a vocational skills workshop, mental health education, and wellness skills training; she was returned to Tarrant County as competent to stand trial in February 2012. Although released lucid and

ready for trial, three hours later at the Tarrant County Jail, Colette was exhibiting signs of the behavior that had landed her in the state hospital to begin with. She was released from custody upon her return to Tarrant County.

In August 2012, about 10 days before trial, the defense, for the first time, stated that it would raise an insanity defense.² Although this was not timely notice, we felt that the court in its discretion would grant us a continuance and let the defense proceed. Additionally, the defense had Colette examined again and claimed she was once again incompetent. The defense expert, Dr. Emily Fallis, stated that she could not examine Colette for sanity because she felt that the defendant was incompetent.

This time we weren't willing to agree. By this point we had subpoenaed a number of Colette's records, including medical, student, probation and Tarrant County Mental Health and Mental Retardation (MHMR) records. Upon review of them all, we saw a pattern of malingering, defined as feigning or exaggerating symptoms of illness for secondary gain. We believed Colette was trying to abuse the system and continue to avoid trial. We asked the court to appoint an independent doctor to evaluate her, and Dr. Antoinette McGarrahan, a clinical psychologist with specialties in forensic psychology and neuropsychology, was appointed. Dr. McGarrahan reviewed voluminous records, interviewed family, friends, and neighbors met with Colette, and conducted objective testing. In her report, she stated that in her opinion, Colette Reyes was malingering to improve her legal situation.

While Colette was at Vernon, we obtained records from the University of Texas at Arlington where she had been a nursing student until 2008 when she was kicked out. While in the program, several students filed

complaints against her because they were afraid of her (though their reasons for feeling that way were not addressed in the records). Records showed that when Colette struggled with a particular class, she would delay taking exams and consistently miss classes due to claimed physical ailments, though she never provided any written documentation of disability to the university.

First Competency Trial

Our first competency trial was set for jury trial in January 2013. To prepare, we met with Dr. McGarrahan to discuss her findings. We also spoke to people in contact with Colette in the community, none of whom noticed any out-of-the-ordinary behavior. We were ready to call them as witnesses if needed.

The defense called Dr. Fallis, who testified that in her opinion Colette was incompetent to stand trial. She based her opinion on evaluations by psychologists who had seen Colette, offense reports, and two interviews. Dr. Fallis diagnosed Colette with schizoaffective disorder. Schizoaffective disorder is a mental illness that has features of two different conditions, schizophrenia and an affective mood disorder, either major depression or bipolar disorder. Of the other six doctors who had seen Colette over the past year, three had diagnosed her with paranoid schizophrenia, one with either schizoaffective disorder or paranoid schizophrenia, another with major depression, and one with a cognitive disorder and paranoid schizophrenia. Dr. Fallis testified she did not believe Colette was malingering based on her behavior during her interviews.

On cross-examination Dr. Fallis was forced to admit that she had conducted no objective tests to determine if Colette was malingering. In fact, only two doctors who had seen Colette prior to Dr. Fallis had administered any tests to determine malingering, and both indicated less

than optimal effort and the possibility of malingering.

We called Dr. McGarrahan to rebut Dr. Fallis's testimony. Dr. McGarrahan had conducted a thorough evaluation of the defendant and administered four different tests to detect malingering. She testified that she believed Colette had symptoms of borderline personality disorder but that she did not suffer from severe mental illness. Dr. McGarrahan explained that even though Colette had a master's degree in engineering, her performance on objective testing was at the level of a moderately mentally retarded person. Colette's ability to function in the community was inconsistent with the way she presented to doctors. In fact, there were several occasions in which doctors found that Colette was incompetent, and on the same day she met with her supervision officer or court officials and appeared completely normal. To explain why her opinion was different from a number of other doctors, Dr. McGarrahan testified that once one doctor diagnosed Colette with schizophrenia, the others seemed to rely on prior evaluations.

For the majority of the competency trial, Colette quietly read her Bible or swayed back and forth in her chair. But when Dr. McGarrahan was discussing malingering, Colette yelled out, "I am not faking!" Dr. McGarrahan was then able to explain how Colette's behavior indicated that she is able to understand what is being said and that her outbursts occur during testimony that is not helpful to her legal situation. During our closing argument, Colette had another outburst, and we were able to argue directly to the jury that Colette understood what was happening.

At the conclusion of the trial, the jury found Colette competent to stand trial.

The Murder Trial Delayed

A few days before trial, in April 2013, the defense filed a notice of intent to raise the insanity defense. They also raised the issue of competency again, so our trial was going to be delayed. Although Colette was presumed to be competent based on the outcome of the last trial, the issue of competency can be raised at any time. This time her defense attorney also produced a motion requesting permission to testify at the competency trial. Out of concern for potential conflict, the judge allowed counsel to withdraw and appointed a new defense attorney for Colette. The new defense attorney promised to get up to speed on the case as quickly as he could, but once again, we were re-set for trial, this time until November 2013—a full two years after Colette's initial incompetency commitment to Vernon.

In the meantime, we were finally able to get Colette's medical records from California. We had attempted to get the records by an out-of-state subpoena, but in citing HIPAA laws, the State of California made it very difficult to obtain the records. They showed she was hospitalized and diagnosed with paranoid schizophrenia in 1994, after she exhibited strange behavior upon being caught stealing from her employer.

Despite getting a new defense attorney, we still expected an insanity defense. Therefore, we obtained a court order and had Colette evaluated by Dr. Randy Price. Dr. Price attempted to interview Colette, but she would not cooperate. When he tried to talk to her, she chanted in a made-up language. As he raised his voice while talking to her, she would get louder as well. Dr. Price reviewed the offense reports, all of our records, and listened to the tape recording of the murder. His conclusion was that Colette was sane at the time of the offense.

A Second Competency Hearing

In November 2013, it was time for

trial. The defense raised the issue of incompetency again, so we first had to have another competency hearing. We had a visiting judge presiding over the case, and this time the competency trial was to the judge. Once again the defense called Dr. Fallis. As she had previously testified, she said that Colette was not competent to stand trial. The defense also called a nurse practitioner for Tarrant County MHMR who treated Colette in jail. On cross she testified that in her first meeting with Colette, Colette seemed normal until she identified herself as being with MHMR—then Colette started yelling religious statements and answering questions with a religious theme. She admitted that when Colette is well, she exaggerates her illness to seem more ill than she is and that Colette would act out and refuse medication as her court dates approached.

The defense's final witness during competency was Colette's former defense attorney, Wes Ball. Mr. Ball testified that Colette would not assist him in her defense. He said that when he tried to ask her questions related to the events surrounding Arthur's death, she would not answer. Mr. Ball testified that Colette would respond only with religious answers. On cross, Mr. Ball admitted that it is possible that Colette had the ability to answer his questions and assist him but was choosing not to take part in her defense.

For our case, we called Dr. McGarrahan again. Dr. McGarrahan had reviewed Colette's jail records, listened to testimony of the other witnesses, and met with Colette in the holding cell before trial. Dr. McGarrahan again testified that she did not believe that Colette was suffering from severe mental illness and was malingering. We also called a detention officer from the Tarrant County Jail. She testified that Colette would behave appropriately when being escorted to visit her family and friends or when it was time to order

commissary. But when it was time to meet with mental health officials or go to court, she would chant and exhibit bizarre behavior. Finally, we called Dr. Price to describe his meeting with Colette and offer his opinion that she was purposefully choosing not to cooperate with him. At the end of all the evidence, the judge found that Colette was competent to stand trial.

The Murder Trial—Finally

After this competency hearing, we immediately launched into the trial, with jury selection starting the next morning. We spent the majority of voir dire discussing mental illness and insanity. It was important for potential jurors to understand that a person can have a mental illness and still not be insane.³ We wanted jurors to realize that people use slang terms like "crazy" and "psycho" to refer to other people all the time, but that doesn't necessarily make them insane in the legal sense. This was important because in the tape recording of the murder, Arthur referred to Colette a number of times as being "crazy," "psycho," and in need of treatment because she was mentally ill.

The prosecution has the burden to prove beyond a reasonable doubt that the offense was committed, and the defense then has the burden to prove by a preponderance of the evidence that the defendant was insane at the time of the alleged conduct.⁴ We presented our case in chief as an ordinary murder case and did not address the issue of sanity at this time. We called the officers who arrived at the scene, the crime scene officer, the firearms examiner, the medical examiner, and Detective Lopez.

We also called the 911 call-taker and played Gabby's emotional 911 call. Gabby testified about the events surrounding her father's murder and about life with Colette. She told the jury that Colette had hidden Arthur's guns from him after he moved out.

We also called Arthur's divorce lawyer to testify that, unaware of Arthur's death, he filed a petition for divorce on Arthur's behalf the very day after his murder. Because we suspected the defense was going to argue that Colette's recording of the murder was not something a sane person would do, we also had him explain that it is not uncommon for parties going through a divorce to record conversations in attempts to gain the upper hand.

We concluded our case by calling our audio-video expert, and playing the tape of the murder.

Colette was disruptive multiple times during the trial. When Gabby testified, she yelled at her and called her a liar. On several occasions the disruptions were so loud that the judge had to send the jury out and have the defendant removed from the courtroom. Colette remained in the holdover cell for portions of the trial, but the judge had a speaker placed outside her cell so that she could hear what was taking place in the courtroom.

The defense began its case by calling one of Colette's sisters, Marie Cook, who testified that Colette's family was aware of her mental illness and wanted her to get help, but Arthur would not allow it. On cross, we pointed out that she had seen Colette only a handful of times during her and Arthur's 22-year marriage and that the couple's children were probably more aware of what was taking place in the home.

The defense's only other witness was Dr. Fallis. On direct, Dr. Fallis testified extensively about her belief that Colette suffered from a severe mental disease or defect at the time of the offense. However, on cross she admitted that she could not testify as to whether Colette knew the difference between right and wrong.

In rebuttal, we called a few witnesses to testify about Colette's behavior



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both before and after the murder. An insurance claims agent testified Colette was the beneficiary of Arthur's life insurance policy and that just weeks after his death, she attempted to recover death benefits. The paperwork Colette submitted implied that Arthur's death was an accident. Gabby's best friend's mother testified that Colette was very upset about the divorce and was extremely worried about her financial situation. Daughter Naomi testified that her mother was manipulative and controlling.

Our final witness was Dr. Price, who testified that Colette was not insane at the time of the offense. He believed that Colette might have a borderline personality disorder but that she does not suffer from a severe mental disease or defect. Furthermore, in his opinion, Colette knew the difference between right and wrong. Although the defendant would not speak with him about the murder, in his opinion, the tape recording of the offense was the best evidence.

The jury deliberated for about three

hours before finding Colette guilty of murder.

At the punishment phase, we recalled Naomi to tell the jury that after the murder, Colette had emptied all of the family's bank accounts, including her and Gabby's college funds.

In punishment, the defense called a couple of doctors who worked for Tarrant County MHMR and had seen Colette while she was on bond and in jail. They testified about Colette's continued need for medical treatment.

But the biggest surprise of the trial came when Colette decided to testify. Even on direct, Colette tried to control the direction of her testimony by interjecting her own facts and not answering her lawyer's questions. We objected many times for nonresponsive answers, which the court sustained.

The jury deliberated for about an hour and a half before sentencing Colette to 45 years. After all of her attempts to delay justice, she finally had to answer for Arthur's murder.

We faced a number of challenges in this prosecution. We made some mistakes along the way, mainly in giving too much weight to the initial assessment of the court's expert, but in the end successful prosecution came down to our preparation. With mental illness being such a concern in our society and in the criminal justice system, we were pleased that the jury didn't allow Colette to exaggerate her symptoms of mental illness and that they held her responsible for the murder she committed.

Endnotes

1 Tex. Code Crim. Proc. art. 46B.003.

2 A defendant planning to offer evidence of the insanity defense must file with the court a notice of the defendant's intention to offer that evidence at least 20 days before the date the case is set for trial. Tex. Code Crim. Proc. art. 46C.051.

3 A person is legally insane if at the time of the conduct charged, the actor, as a result of severe mental disease or defect, did not know that his conduct was wrong. Tex. Penal Code §8.01.

4 Tex. Code Crim. Proc. art. 46C.153.