

Judges, Juries & Justice

The Constitution and the Rights of the Accused

**Law Day** Every year around the first of May, Oklahomans join with all Americans to observe Law Day, a day set aside to celebrate our nation's great heritage of liberty, justice and equality under the law. As Americans, we are proud of our heritage as a free nation and know that the law safeguards our rights and freedoms! In 2016, we are taking a closer look at our courts and our system of justice, and we encourage all citizens, young and old alike, to gain a greater understanding of the role of the judicial system that makes our democracy work, and especially how the courts are the safeguard of our liberty under the Constitution.

**For more information regarding Law Day visit: [www.okbar.org/public/Outreach/LawDay](http://www.okbar.org/public/Outreach/LawDay)**

**Judges**



Judges are kind of like referees in sports. In a sporting event, a referee must make calls based on the rules of the game. They cannot let their own opinions about the teams or the players affect the decisions they make. Judges act like referees in a courtroom. They make decisions

about cases based on the facts and the law. They must be free from bias. Judges must be free to exercise judicial independence – the ability to decide a case based on the laws and the Constitution without fear of retaliation for making a decision. Fair and impartial courts work to check governmental abuses of power, promote equal justice and the rule of law, and protect individual rights. The judiciary must also be independent of the executive and legislative branches of government, special interest groups and political parties.

**How do we decide who gets to be a judge in Oklahoma?**

Our state's Judicial Nominating Commission (JNC) is a very important part of how we choose judges and justices in Oklahoma. The commission was established in 1967, prompted by a bribery scandal that shook the Oklahoma Supreme Court and made national headlines during the early 1960s. The creation of the Oklahoma JNC was the fulfillment of a nationwide reform movement away from the partisan political election of judges.



The nonpartisan commission nominates candidates for final selection and appointment by the governor. The JNC determines whether nominees are qualified to hold judicial office. When there are vacancies on the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and such other judicial vacancies as required by the statute, the JNC begins its work finding qualified candidates to serve. Oklahomans directly elect district and associate district judges in nonpartisan elections, however if a district judge or associate district judge dies or resigns during his or her term, the JNC finds qualified replacement candidates, and the governor makes the final appointment.

The JNC has 15 members who are not paid for their service. Six of the members – just over one-third of the commission – are lawyers. Each of the lawyers represents one of the six congressional districts as they existed in 1967.\* Each lawyer is elected by his or her fellow attorneys who work or reside in the district. The six lawyers are elected for six-year terms, staggered at two-year intervals.

The JNC was designed to be as free from partisan influence as possible. Nine members – the majority – are nonlawyers. Six are appointed by the governor, one from each of the “old” congressional districts, to serve staggered six-year terms. Of the six members named by the governor, not more than three can belong to any one political party and none can have a lawyer from any state in their immediate family. The three remaining nonlawyer members serve a two-year term as members-at-large. One is appointed by the Senate president pro tempore, one is appointed by the speaker of the House of Representatives

and one is selected by the other members of the JNC. Of the three at-large members, not more than two can be from the same political party.

Besides limiting the number of nonlawyer members who may belong to any one political party, commissioners may not hold any other public office or any official position in a political party. No commissioner is eligible to hold judicial office while serving on the commission or for five years thereafter. No commissioner may succeed himself or herself.

*\*Although the number of districts and their boundaries have changed over time, Oklahoma State Constitution (Article 7B §3) dictates that the boundaries for these elections are the Congressional Districts as they existed when the article was adopted in 1967.*

**Juries**

Did you know that one of the principles we fought for in the Revolutionary War was the right to trial by jury? The Declaration of Independence, signed on July 4, 1776, pointed out that King George III of England had deprived Americans, “in many cases, of the benefits of trial by jury.” In the Bill of Rights (the first 10 Amendments to the U.S. Constitution), trial by jury is guaranteed in the Fifth, Sixth and Seventh Amendments!

During a jury trial, jurors decide whether defendants are guilty or not guilty, liable or not liable. The decisions that jurors make affect millions of lives every day and have a profound impact on our economy and our society. By entrusting jurors from the community to decide legal cases—some of them involving millions of dollars or life and death issues—we reinforce our belief that everyday people can make the right decision, that we are an open, democratic government.



A jury of one's peers is a cornerstone of American democracy. Along with voting, it's one of the main ways people take part in the public life of this nation. Few things in our civic life provide such a direct contact with our democracy as does serving on a jury.

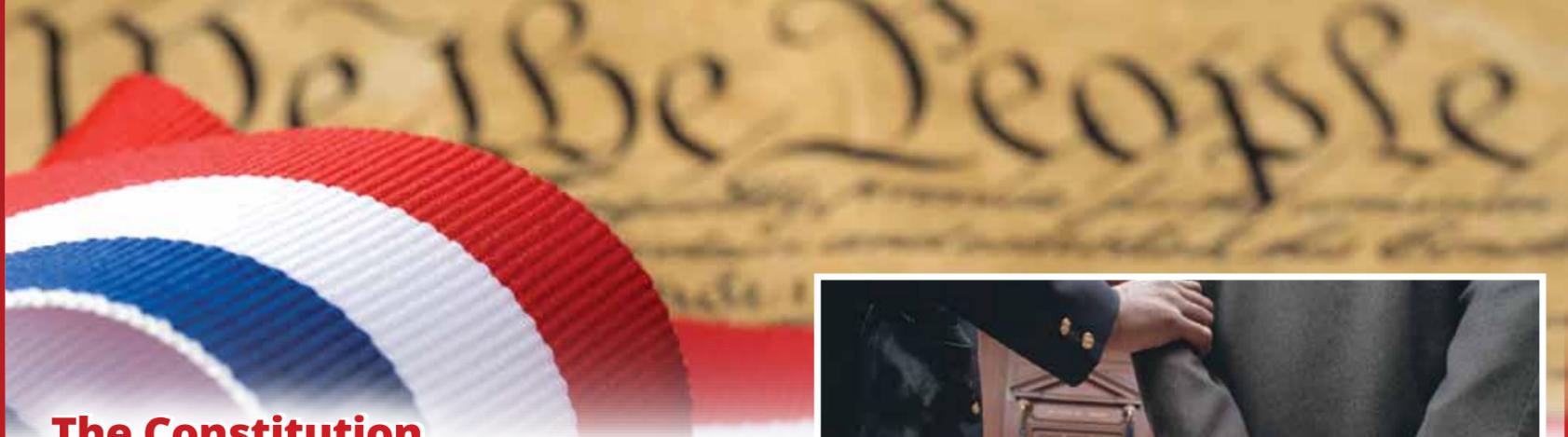
**Justice**

The third branch of government is the guardian of justice. Even the most eloquent constitution is worthless with no one to enforce it. Founding Father John Adams once famously declared, we must have a “government of laws and not of men.” Open and accessible courts ensure that everyone's legal rights are respected.

Why is the law important to preserving justice? The stability of American society depends in large part on our nation's commitment to the rule of law. The rule of law means that all members of our society are subject to the same set of laws and that these laws are enforced consistently without regard to one's position in society. Not every dispute needs to be resolved in court, but we should know when and how the law can protect our interests and preserve our rights.



When we recite the Pledge of Allegiance of the United States, we celebrate our nation's commitment to “liberty and justice for all.” As Americans, we are proud of our heritage of liberty under law. We know that the rule of law safeguards our rights and our precious freedoms.



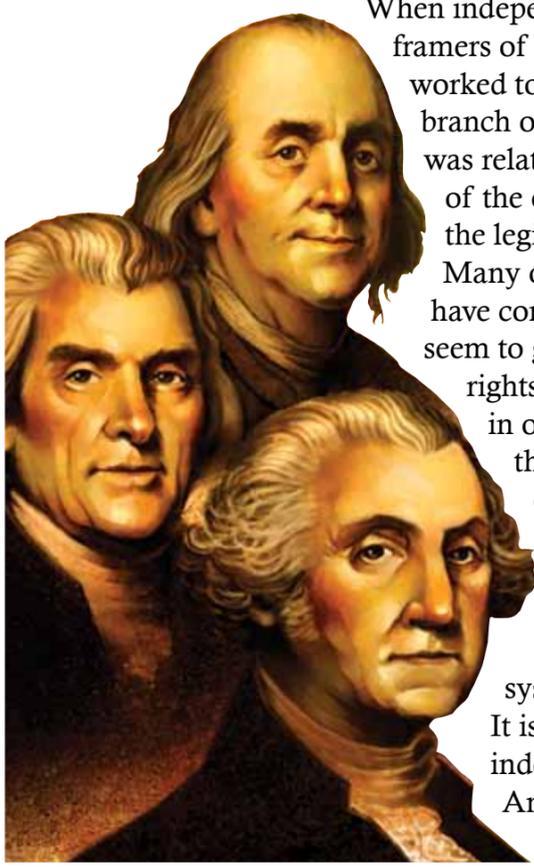
## The Constitution

When the Constitution was created, it established a doctrine of separation of powers among the three branches of government—**executive, legislative and judicial**. In an effort to balance any accumulation of power, our nation’s founders (the framers of the Constitution) included a system of checks and balances in the Constitution, and this system ensures that each branch serves as a constraint on, and is constrained by, the powers of the other branches. Our system of separation of powers and checks and balances stands as a model for other nations of the world.

The Constitution grants our rights, but without courts the Constitution might just be a quaint document on parchment. The framers of our Constitution understood the importance of judges who would be able to apply the law freely and fairly. They were familiar with abuses in England, where for many years the king or queen could assign judges to the bench and then remove them summarily if they did not represent the sovereign’s interests. They knew firsthand the problems of judges in the American colonies who were essentially crown officers, whose duty was to enforce British policies and law. In fact, one of the grievances against the king enumerated in the Declaration of Independence was that “He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.”

When independence came, the framers of the Constitution worked to create a third branch of government that was relatively independent of the executive and the legislative branches. Many other countries have constitutions that seem to guarantee the same rights that are found in ours, but in reality they serve as cloaks of respectability for repressive regimes. What is the difference between those systems and ours? It is our uniquely independent American judiciary, which functions as a separate and

coequal third branch of government in practice as well as in theory. Our courts enforce the U.S. Constitution, protect our rights as Americans and make the rule of law a reality.



## The Rights of the Accused

In the United States, everyone is entitled to the protections of our Constitution, even those who are accused of crimes. In the Bill of Rights, the rights of the accused are summarized below:

### *Fourth Amendment*

People, their homes, and their possessions cannot be searched or taken by the government without a good reason.

In most cases, the police must get a warrant (permission from a judge) before they can conduct a search.

### *Fifth Amendment*

People who are accused of crimes do not have to give evidence against themselves.

People cannot be tried again for a crime for which they have been found innocent.

People’s lives, liberty, or property cannot be taken from them without due process of law.

### *Sixth Amendment*

A person accused of a crime has the right to a speedy, public trial by a jury (other citizens).

People must be told what crimes they are accused of.

People have a right to question the persons who are accusing them.

An accused person has the right to have a lawyer.

### *Eighth Amendment*

People arrested for crimes are entitled to be free on reasonable bail (money deposited with the court) while awaiting trial.

If a person must pay a fine, it must be a fair amount.

People found guilty of crimes shall not be punished in cruel and unusual ways.

## History of Law Day

Law Day was conceived by the late Hicks Epton, a lawyer from Wewoka, Oklahoma, and a past president of the Oklahoma Bar Association. President Dwight D. Eisenhower established Law Day nationally by presidential proclamation in 1958. On this occasion, he said, “It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and quality under law. It is our moral and civil obligation as free men and as Americans to preserve and strengthen that great heritage.”

The first of May was set aside in 1961 by a Joint Resolution of Congress as a “special day of celebration by the American people in appreciation of their liberties and the reaffirmation of their loyalty to the United States of America” and as an occasion for “rededication to the ideals of equality and justice under laws.”

Since the first observance, the American Bar Association, the national voluntary organization of the legal profession, has acted as the national sponsor of Law Day. State, county and local bar associations organize individual projects throughout the country. Many national organizations also recognize Law Day, including the National Education Association, National Governors’ Association, U.S. Conference of Mayors, Boy Scouts and Girl Scouts of America and civic and service clubs such as Rotary International and Kiwanis International.



### STUDENT ACTIVITY:

The Oklahoma Bar Association invites all Oklahoma students to participate in the 2016 Law Day student competition.

For details on how to submit a Law Day project visit <http://www.okbar.org/public/Outreach/LawDay/contest.aspx>