



Capital Commentary

June 17, 2011

Issue 8

Brain Scans in the Courtroom

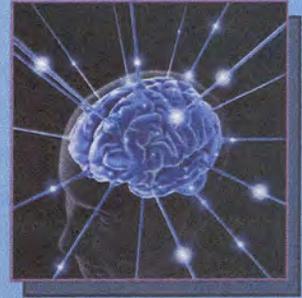
Neuroscientist have been using brain scans to learn how to read minds. This research is increasing our basic understanding of the human brain and offering hope for medical breakthroughs. Commercial firms, however, are beginning to apply this research to lie detection, selling their services.

For nearly 10 years, neuroscientist have been publishing articles about detecting lies with magnetic resonance imaging (MRI). The trouble is that these studies have taken place in the artificial environment of the lab using people who knew they were taking part in an experiment and were following instructions to lie. None of the studies examined lie detection in real-world situations. No government agency has found that this method works; no independent bodies have tested the approach. Yet people are buying into lie-detection reports and trying to introduce them into the courtroom.

In a federal district court in Tennessee, the defendant in a Medicare fraud case wanted to introduce the MRI lie-detection report into evidence to prove that he had not intended to commit fraud. Ultimately, the judge decided that the evidence should not be admitted. He found, correctly, that the accuracy of the method was unknown in real-world settings, that there were no standards for how the method should be applied, and that the scientific community did not generally accept this application of the technology.

In New York, a plaintiff in state civil court wanted to introduce an MRI report to show that her main witness was telling the truth. The judge in that case ruled that the credibility of a fact witness was solely a question for the jury; expert testimony about the witness's credibility was inadmissible, whether or not it was reliable.

Continued on Next Page...



- **Today courts** rarely admit brain scans as evidence at trial for both legalistic and scientific reasons. As neuroscience matures, however, judges may increasingly see such scans as relevant to arguments about a defendant's mental state or a witness's credibility.
- **The greatest influence** of brain science on the law may eventually come from deeper understanding of the neurological causes of antisocial, illegal behaviors. Future discoveries could lay the foundation for new types of criminal defenses.
- **Yet neurological insights** might also upend traditional ideas about personal responsibility and just punishments.

OKLAHOMA DISTRICT ATTORNEYS COUNCIL

421 N.W. 13th Street,
STE 290,
Oklahoma City, OK
73103
(405) 264-5000



Brain Scans continued....

In 2009, the science made its debut in criminal proceedings in Illinois. After confessing to the murder of a nurse in 1984, already convicted murderer Brian Dugan faced the death penalty. His attorneys, realizing that they would have a hard time getting leniency, sent Dugan to get an MRI scan of his brain. The purpose, according to Dugan's attorneys, was to offer persuasive mitigating evidence that Dugan was a psychopath and could not control his killer impulses. The prosecutor, Joseph Birkett argued that allowing the scans, with the bright colors and the statistical patterns might bias the jury. Some studies, Birkett argued, have shown that neuroscientific explanations can be particularly seductive to the layperson.

Ultimately, the judge ruled that the jury could not see Dugan's actual brain scans, but that an expert, Kent Kiehl, could describe them and tell the jury how he interpreted them to come to the conclusion that Dugan was a psychopath. After Kiehl's extensive testimony on the subject, the prosecution brought in a rebuttal witness, Jonathan Brodie, a psychiatrist at New York University. He refuted the imaging on several grounds. Most importantly, timing was an issue. Dugan was scanned 26 years after he committed the crime. It was impossible to know what was going on in Dugan's mind at that time. In the end, the jury was not swayed and voted to give Dugan a death sentence.

Eventually, thousands of trial judges in America may have to rule on this technology. More important, millions of lives may be affected by the use of these lie-detection reports outside of the courtroom - in criminal investigations, in business deals, perhaps in the military or the intelligence community, even in love and marriage.

Before this technology gets a foothold in society, we must answer, more broadly, the questions judges may confront. Most experts recommend that we ban non-research use of neuroimaging for lie detection until the method has been proved effective by rigorous, independent, scientific testing. Otherwise we risk hurting people and tarnishing the good name of neuroscience. Consequently, even if MRI scans did pass the test, when and how would we use it? Would we force defendants to submit to it? What about suspects, terrorist, misbehaving students, unruly passengers in airport security lines, or teenage children? Whatever standards MRI scans should be held to, as technology improves, neuroscientist and the legal system are under pressure to work them out.



In ancient Sparta, before being admitted to certain schools Spartan young men were required to pass the selection criteria. The young men were ordered to stand on the edge of a cliff, and were asked if they were afraid.

The answer was always negative; however its integrity was determined by the men's complexion. It was concluded that the pale young men lied and they were pushed from the cliff.

NAACP Releases 2010 Execution Update

A 2010 quarterly report entitled *Death Row U.S.A.* was recently released by the NAACP. The report summarizes and gives a brief overview of racial statistics and the death penalty as of April 2010. For the entire report [click here](#).

Number of Death Row Inmates in U.S. *(As of April 2010)*

3,260

Race of Defendants on Death Row			Gender of Defendants on Death Row		
White	1,442	(44.23%)	Male	3,198	(98.10%)
Black	1,351	(41.44%)	Female	62	(1.90%)
Latino	389	(11.93%)			
Native American	37	(1.13%)			
Asian	40	(1.23%)			

Total Number of Executions Since 1976

1,200

Oklahoma Defendant-Victim Racial Combinations*

White/White	51	55%	White/Mixed	2	2%
Black/White	14	15%	Asian/Asian	2	2%
Black/Black	10	11%	NA/NA	1	1%
NA/White	5	5%	Black/Asian	1	1%
White/Black	2	2%	White/Latino	1	1%
White/Asian	2	2%	Black/Latino	1	1%

*These statistics are based on inmates that have been executed.

Number of Homicide Victims in the U.S.

594,276

Homicide Trends in the U.S. 1976-2005 - Bureau of Justice Statistics



OKLAHOMA NEWS

Jerome Ersland Found Guilty in Pharmacy Shooting

Oklahoma City - A jury has decided pharmacist Jerome Jay Ersland was guilty of first-degree murder for fatally shooting a masked robber two years ago inside an Oklahoma City drugstore. Jurors chose life in prison as punishment.

Ersland, 59, of Chickasha, had no reaction as Oklahoma County District Judge Ray C. Elliott read the verdict. Formal sentencing was set for July 11. The judge has the authority to suspend part or all of the life term but that rarely happens in murder cases.

Emanuel Mitchell and Anthony Morrison Guilty in Pharmacy Shooting

Oklahoma City - In May, jurors found Emanuel Mitchell, 33, and Anthony D. "Black" Morrison, 44, guilty of first-degree murder in the death of a 16-year-old accomplice during a 2009 robbery at Reliable Discount Pharmacy in south Oklahoma City. The 16-year-old accomplice was fatally shot by pharmacist, Jerome Ersland.

Jurors decided the cousins should spend life in prison for murder. Jurors also found Morrison and Mitchell guilty of conspiracy to commit an armed robbery. Jurors found Mitchell guilty of driving a stolen car.

Hominy Man Receives 20-year Sentence for 1997 Killing



Pawhuska - Jeffrey Scott Garrison received a 20-year prison term June 16 in connection with the 1997 slaying of a teenage girl after he

pleaded no contest to first-degree murder.

Garrison was charged with the July 2, 1997, killing of Amy Lee Schlock Hays, 16, of Hominy.

Garrison, who was arrested in connection with the killing in May 2008, was scheduled to stand trial in September.

Laconsello Pleads Guilty in Stabbing Death of 4-year-old

Muskogee - Aaron Laconsello, 19, entered a plea of guilty in the death of Dakota Joe Lane, 4, who died after Laconsello broke into his family's home and stabbed him 36 times with a pair of scissors on Nov. 9. The boy's pregnant mother, Stephanie Lane, was also injured when she tried to rescue her son.



OKLAHOMA NEWS

Kansas Inmate Charged in Death of Missing Jay Woman, Barbara Ann Johnson-Willard

Jay — A Kansas inmate already serving time on multiple rape and sexual assault convictions has been charged in the slaying of a Jay woman who has been missing for nearly 15 years. In June, Delaware County authorities charged John Lee Weeks, 44, formerly of Gentry, Ark., with first-degree murder in the death of Barbara Ann Johnson-Willard, 29.

Authorities said Weeks was able to fly under the radar undetected for so long because he wasn't from the area. Johnson said both of Johnson-Willard's parents died since her disappearance. Weeks is expected to be extradited to Oklahoma in 15 to 45 days. Weeks and Johnson-Willard worked together at Simmons Poultry Processing Plant in Jay for 10 days just before the woman disappeared. Simmons personnel records indicated June 14, 1996, was the last day that both Weeks and Johnson-Willard worked at the plant, he said. The woman went missing three days later. Weeks has refused to talk to investigators. Johnson-Willard's remains have never been recovered.

Trial Set in Oklahoma Quintuple Murder

El Reno — Canadian County authorities have scheduled an Oct. 3 trial date for a man accused of killing his girlfriend and her four children. Officials set the trial date for 28-year-old Joshua Steven Durcho. Durcho faces five counts of first-degree murder in the deaths of 25-year-old Summer Rust and her children, 7-year-olds Kirsten and Autumn Rust; 4-year-old Teagin Rust and 3-year-old Evynn Garas.

Their bodies were discovered on Jan. 12, 2009, at their El Reno apartment. It is also alleged Durcho killed the woman to keep her from contacting police about two outstanding warrants for failing to appear in court on charges of driving under the influence and drug possession. Prosecutors are seeking the death penalty.

Guthrie Teenager Found Guilty in Father's Death

Guthrie- On May 16, the jury took only 2 1/2 hours to convict Kaleigh Fryer, 16, who was tried as an adult. Fryer stood accused of conspiring with her married lover to kill her father.

Prosecutors believe that Fryer persuaded her boyfriend, Jerry Chiles Jr., 22, to stab to death Lewis Fryer, 50, in his home in Guthrie. Fryer's attorneys contend "Ms. Fryer was as big a victim as any in this case, she was taken advantage of by Jerry Chiles." Fryer's married boyfriend, Jerry Jerone Chiles Jr., 22, admitted to stabbing Lewis Keith Fryer, 50, to death in the man's bedroom about 3 a.m. on May 12, 2010. Chiles testified against Kaleigh Fryer in return for a sentence of life in prison with the possibility of parole.



OKLAHOMA NEWS

Nichols Hills Doctor Acquitted on Insanity Grounds

Oklahoma City - On June 3, a judge ruled a Nichols Hills physician was insane when he fatally stabbed his 9-year-old son in 2009 and attacked his wife when she tried to intervene. Dr. Stephen Paul Wolf, 52, was acquitted on the insanity ground of first-degree murder and assault and battery with a deadly weapon.

Wolf will be sent to the state mental hospital in Vinita. He could be there for the rest of his life. Another hearing will be held within 45 days.

The judge has the final say on when and if he is released. "He states that he was feeling that he was the devil and that his son, Tommy, was the son of the devil and that being the son of the devil is the worst evil there is and he had to release his son from that evil," a University of Oklahoma psychiatrist, David H. Tiller, reported.

The psychiatrist prepared a report for Wolf's attorney, Mack Martin. A Texas psychologist, Robert D. Morgan, examined Wolf for prosecutors. Both experts agreed he did not know at the time of the stabbing that his actions were wrong. Both said he has experienced remorse and grief after he realized what he had done.

Mustang Man Convicted of Murder Despite Insanity Claim

Oklahoma City - An Oklahoma County jury has convicted a Mustang man of first-degree murder in the shooting death of his father in Oklahoma City.

A jury found 20-year-old Morgan Cline guilty and recommended a life in prison term. Defense attorneys argued that Cline was insane when he shot and killed 58-year-old Richard Cline on April 18, 2009, while Cline slept in his Oklahoma City home.

Police say Morgan Cline told detectives that he knew what he was doing but that "it just felt right."

Death Row Inmate Lonnie Richie Resentenced to LWOP

Tulsa - A nearly 20-year-old Tulsa murder case was resolved when a man who had previously been sentenced to death in the case was resentenced to life in prison without parole. Lonnie Wright Richie pled guilty to the first-degree murder in the hanging of Laura Launhardt. Launhardt disappeared from a Kmart store on August 28, 1991.

Richie was convicted in 1993 and sentenced to death. A new trial was ordered by the 10th Circuit because the trial judge did not properly instruct jurors, failing to give the option of second-degree murder. Prosecutors dropped the death penalty as part of an agreement in which Richie waived his right to a retrial and pled guilty.

Oklahoma Court of Criminal Appeals

Note: Pursuant to Title 22, Chapter 18, Rules of the Oklahoma Court of Criminal Appeals, Rule 3.5(C) (3), "an unpublished opinion is not binding" on the Court. Parties may cite and bring to the Court's attention an unpublished opinion of the Court provided counsel states that "no published case would serve as well the purpose for which counsel cites it," and provided further that counsel shall provide opposing counsel and the Court with a copy of the unpublished opinion.

Bills v. State , F-2009-404, Decided May 4, 2011 - Unpublished

Appellant Kassie Lakei Bills was tried by jury in the District Court of Oklahoma County. She was found guilty of First Degree Murder and sentenced to Life Without Parole.

Issue: Appellant raises several propositions of error, the court finds reversible error in proposition I, rendering all other propositions denied as moot. In proposition I, **Appellant argues that the trial court exceeded its appropriate role in instructing the jury during voir dire.**

Holding: In this instance, while the trial court judge incorporated material from the uniform instructions into the *voir dire* proceeding, he also included his own additional commentary on the deliberation process. Based on his comments, it appears that the trial judge was trying to instruct the jury on how to avoid deadlock. These comments were similar to an *Allen* charge, or deadlocked jury instruction (No. 10-11 OUJI-CR(2d)), which is given only after jurors start their deliberations. The trial court's admonition to jurors not to be "hard headed" and to reel in fellow jurors who might wander or stray because "we don't want to be here all day, all week, all month, all year" is obviously a preemptive attempt to head off a deadlocked jury.... Therefore, that the trial court's *voir dire* comments urged jurors to reach a verdict quickly and urged majority jurors to reel in individual "hard-headed jurors whose views were impeding a decision, was a misstatement of the law that was an inherently coercive intrusion into the jury's deliberative process. This was plain error¹.

Reversed and Remanded for New Trial.

¹Plain errors are violations of legal rules clear from the appellate record that go to the foundation of the case or take from the defendant a right essential to his defense.

.....

Wise v. State, F-2009-1110, Decided May 4, 2011 - Unpublished

Appellant Twila Renae Wise was tried by jury in the District Court of Lincoln County. She was found guilty of First Degree Felony Murder and sentenced to Life Imprisonment.

Issue: Appellant raises several propositions of error, the court finds reversible error in proposition VIII. In proposition VIII, **Appellant argues that she was denied her Sixth Amendment right to effective counsel.** Specifically, that Appellant's counsel was ineffective for failing to adequately cross-examine accomplices on critical issues relating to their credibility.

Continued on next page

Wise v. State, F-2009-1110, Decided May 4, 2011 *Continued from p.7*

Appellant argues that her counsel failed to utilize information that accomplices were only charged with burglary for their involvement despite the fact that, as the prosecution argued, each of these women was guilty of First Degree Murder as the Appellant.

Holding: Defense counsel's failure to elicit this information, which could have shown that these witnesses had significant motive to lie is enough to render defense counsel's performance constitutionally deficient. There is reasonable probability but for counsel's unprofessional error in not challenging the witnesses credibility with this evidence, the result of the proceeding would have been different. **Reversed and Remanded for New Trial.**

.....

Coddington v. State, D-2008-655, Decided May 13, 2011 - Published

Appellant was tried by jury in the District Court of Oklahoma County. Appellant was convicted of Murder in the First Degree and sentence to Death.

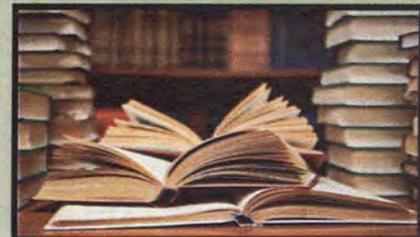
Appellant raised 18 propositions of error.

Proposition 1, Coddington claims the trial court left the bench during the presentation of a videotape offered in mitigation.

Issue: Whether structural error occurs when a trial judge leaves the bench during trial?

Holding: A trial judge's absence from the bench during the course of proceedings is a trial error, not a structural error, and subject to harmless error analysis. This claim of error may be waived, either by a defendant's express consent to the judge's absence, or by implication if a defendant fails to object. The trial court may cure error by ceasing proceedings during its absence, or by explaining the absence to jurors, being available to make relevant rulings, giving notice to all parties, and getting the parties' consent to any absence. Assuming without deciding that the trial court in this case may have briefly left the courtroom while the videotape was played for jurors, Coddington fails to show any prejudice. **Affirmed.**

CAPITAL LITIGATION AND
HOMICIDE
BRIEF AND MOTION
BANK AVAILABLE ON
DACONNECT [Click Here](#)



Supreme Court Opinions

Davis v. United States

Decided June 16, 2011

While conducting a routine vehicle stop, police arrested petitioner Willie Davis, a passenger, for giving a false name. After handcuffing Davis and securing the scene, the police searched the vehicle and found Davis' revolver. Davis was then indicted on charges of being a felon in possession of a firearm. Davis moved for suppression of the firearm, which was denied based on the Eleventh Circuit precedent *New York v. Belton*. While his appeal was pending, *Arizona v. Gant* was decided. Under *Gant* the Eleventh Circuit held that the vehicle search at issue violated Davis' Fourth Amendment rights, but the court declined to suppress the revolver and affirmed Davis' conviction.

Issues: Whether to apply the exclusionary rule when the police conduct a search in compliance with binding precedent that is later overruled. And whether *Gant* can be applied retroactively.

Holding: Searches conducted in objectively reasonable reliance on binding appellate precedent are not subject to the exclusionary rule. And *Gant* is retroactive to the legality of the search; but exclusion doesn't necessarily follow.

Bobby v. Mitts

Decided May 2, 2011

An Ohio jury convicted respondent Harry Mitts on two counts of aggravated murder and two counts of attempted murder. He was sentenced to death.

Issue: Did Ohio jury instructions regarding aggravation, given during the penalty phase of Mitt's murder trial, violate appellant's due process rights?

Holding: The U.S. Supreme Court's logic in *Beck v. Alabama*, holding that the death penalty may not be imposed "when the jury was not permitted to consider a verdict of guilt of a lesser included non-capital offense, and when the evidence would have supported such a verdict." 447 U.S. 625 (1980) does not apply to penalty phase proceedings.

U.S. Supreme Court Opinions

<http://www.supremecourt.gov/>

J.D.B. v. North Carolina

Decided June 16, 2011

J.D.B. was a 13-year-old, seventh grader who was removed from his classroom by a uniformed police officer, escorted to a closed-door conference room, and questioned by police for at least half an hour regarding two home break-ins to which he subsequently confessed.

Issue: Is the age of a child subjected to police questioning relevant to the custody analysis of *Miranda v. Arizona*?

Holding: Yes. A child's age properly informs *Miranda's* custody analysis. In some circumstances, a child's age, "would have affected how a reasonable person" in the suspect's position "would perceive his or her freedom to leave."

Supreme Court Opinions

Tapia v. United States

Decided June 16, 2011

After defendant was convicted of, inter alia, smuggling unauthorized aliens into the United States, the United States District Court for the Southern District of California imposed a 51-month term of imprisonment reasoning that Tapia should serve that long in order to qualify for and complete the Bureau of Prisons' Residential Drug Abuse Program (RDAP). On appeal, Tapia argued that lengthening her prison term to make her eligible for RDAP violated 18 U.S.C. § 3582(a), which instructs sentencing courts to "recogniz[e] that imprisonment is not an appropriate means of promoting correction and rehabilitation."

Holding: Reversing the Ninth Circuit, this Court holds that Federal courts may not impose or lengthen a prison term in order to promote a criminal defendant's rehabilitation.

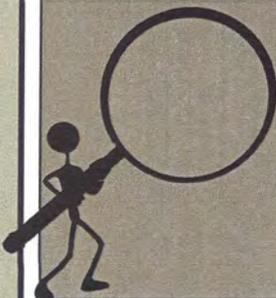
FORENSIC DEVELOPMENT: A CAN OF AIR?

Arpad Vass, claims he has come up with a new technique for detecting decayed bodies. Vass, a scientist at the Oak Ridge National Laboratory, says he has pioneered a way of detecting human decomposition from air samples by researching the chemical compounds observed when a body breaks down.

In the Casey Anthony case, Vass and a colleague used a syringe to extract an air sample from a can holding a carpet sample that had been pulled from Anthony's car. They then injected the air into an instrument called a gas chromatography/mass spectrometric to identify the substances it contained.

The substances were then compared against a database of more than 400 chemical compounds Vass has identified from the decomposition of bodies at the University of Tennessee Anthropological Research Facility. Donated bodies at the facility, dubbed "The Body Farm," were buried in different depths of soil. Hoods were placed over the locations of the bodies to capture the chemical compounds as they were liberated from the decomposing bodies over four years. Vass testified in the Anthony trial that he smelled an "overwhelmingly strong" odor of human decomposition in the air sample. He told jurors that his machine found high levels of chemical compounds observed when the body breaks down, such as chloroform, in the sample taken from Anthony's car.

Anthony's defense team tried to keep Vass from testifying claiming his method was too experimental and failed to meet the *Frye* test. Additionally, the defense suggested that Vass has a financial incentive to have his results validated in a criminal case because it could then be marketed to law enforcement. However, the judge ruled to allow Vass to testify.

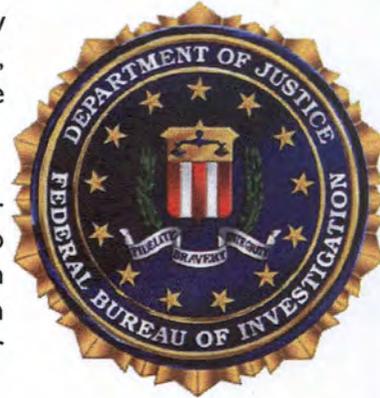


This is the first time this type of test has been allowed to be introduced at trial, so we can probably expect to see the issue arise in appeals if Anthony is convicted. The Orlando prosecutor's office has a history of using novel techniques in the courtroom — it was among the first to use DNA evidence in a criminal case.

FBI Agents Get Leeway to Push Privacy Bounds

MSNBC - The Federal Bureau of Investigation in giving significant new powers to its agents, allowing them more leeway to search databases, go through household trash or to use surveillance teams to scrutinize the lives of people who have attracted their attention.

The F.B.I. plans to issue a new edition of its manual, called the Domestic Investigations and Operations Guide, according to an official who has worked on the draft document and several others who have been briefed on its contents. The new rules add to several measures taken over the past decade to give agents more latitude as they search for signs of criminal and terrorist activity.



Some of the most notable changes apply to the lowest category of investigations, called an "assessment." The category, created in December 2008, allows agents to look into people and organizations "proactively" and without firm evidence for suspecting criminal and terrorist activity. Under current rules, agents must open such an inquiry before they can search for information about a person in a commercial or law enforcement database. Under the new rules, agents will be allowed to search such databases without making a record about their decision.

The new rules will also relax a restriction on administering lie-detector tests and searching people's trash. Under the current rules, agents cannot use such techniques until they open a "preliminary investigation," which - unlike an assessment - requires factual basis for suspecting someone of wrongdoing. But soon agents will be allowed to use those techniques for one kind of assessment, too: when they are evaluating a target as a potential informant. Agents have asked for that power in part because they want the ability to use information found in a subject's trash to put pressure on that person to assist the government in the investigation of others. [For the full article click here.](#)

Important Links

Oklahoma Supreme Court Network

<http://www.oscn.net/applications/oscn/start.asp?viewType=>

Oklahoma Court of Criminal Appeals

<http://www.okcca.net/online/home.jsp>

The Oklahoma Legislature

<http://www.lsb.state.ok.us/>

United States Supreme Court

<http://www.supremecourtus.gov/>

NEWS FROM AROUND THE COUNTRY

Florida: Public Defender Orders Brain Scans for Notorious Killers

Tampa - The public defenders office in Tampa, Florida has ordered brain scans for three (3) accused murderers. The order comes after Demarcus Sears, sentenced to death in Georgia 18 years ago, won a new trial after the U.S. Supreme Court found that his attorneys failed to document brain damage Sears suffered as a child. Medical and Sheriff's sources say the test and security come to about \$5,000 per exam. Experts say, in the end, the cost of the tests are probably far less that the cost of a whole new sentencing phase or trial.

Georgia: Court Upholds Strict Execution Standard

The Georgia Supreme Court has upheld a strict requirement capital defendants must meet to prove they are mentally disabled, and thus avoid the death penalty. The court's 6-1 ruling concluded that death penalty defendants must prove that they are mentally disabled "beyond a reasonable doubt," the highest burden of proof in the legal system. "We have previously addressed this very issue, and we now reiterate our prior holding that Georgia's beyond a reasonable doubt standard is not unconstitutional," read the opinion, written by Justice Harold Melton. Oklahoma standard is preponderance of the evidence.

The ruling is the latest scrutiny of the trailblazing policy Georgia etched out in 1988, when it became the first state to ban executing mentally disabled inmates. But Georgia also stands out as the only one that requires capital defendants to meet the high standard to avoid execution. Last year, a federal three-judge panel struck down the law by a 2-1 vote, saying it could result in the execution of those with mental disabilities. The full 11th Circuit Court of Appeals is now reviewing the ruling. [Defendant's Motion](#); [State's Amicus Brief](#)

2011

Death Penalty Legislation

- ⇒ New Hampshire - HB 167
 - ◆ A bill to expand the death penalty to murders committed in the course of a home invasion. *Bill passed and sent to governor.*
- ⇒ Oklahoma
 - ◆ A bill to allow executions by "drug" or "drugs" determined by the Department of Correction, possibly leading to a one-drug protocol. *Bill passed and sent to Governor.*
- ⇒ Pennsylvania - HB 317
 - ◆ Bill to expand death penalty for certain victims; and would make registration as a sex offender under Megan's law an aggravating factor. *Passed in House.*
- ⇒ Utah - HB 202
 - ◆ Bill to restrict death penalty appeals. Would generally bar a court from issuing a temporary stay of execution following a defendant's first post-conviction petition. The bill would also limit public funding of defense counsel after that first post-conviction has been rejected. There is an exception for new evidence that would alter the case's outcome. *Bill passed and sent to Governor.*

NEWS FROM AROUND THE COUNTRY

Oregon: Death Penalty Opponents File Lawsuit Against Trial Court

Salem - Oregonians for Alternatives to the Death Penalty claim that a Marion county judge erred in allowing death row inmate, Gary Haugen to dismiss his attorneys and waive his appeals without first holding a competency hearing. Haugen's attorneys had recommended further evaluation, arguing at the time that a neuropsychologist who met with Haugen found signs of cognitive defect. The group's spokesman said that the group is acting to make sure the state meets judicial standards; it isn't acting on Haugen's behalf.

Texas: Convicted Killer May Leave Death Row Due to Prosecutor Misconduct

Fort Worth - Six years ago, convicted killer Chelsea Richardson became the first woman in Tarrant County to be sentenced to death. In 2005, Richardson was convicted of capital murder in the slayings of her boyfriend's parents. Authorities said Richardson, her boyfriend, and another friend killed the couple in 2003 so that her boyfriend could inherit his parents' \$1.56 million estate. The friend, who did most of the shooting and stabbing, struck a deal with prosecutors and received a life sentence in exchange for pleading guilty and testifying against the other two. The boyfriend received a life sentence. While Richardson, portrayed as the mastermind, received death.

After four years of legal battles, Richardson's appellate attorney and the Tarrant County District Attorney's office agreed that the former prosecutor on her case, Mike Parrish, withheld evidence and that she should get a new sentencing hearing and a life sentence. Appellate attorneys claim that Parrish failed to give notes by a psychologist that suggested that the friend, not Richardson, was the mastermind.

This agreement marks the second time in three years that the district attorney's office has agreed to change the outcome of a death penalty case handled by ex-prosecutor Parrish. In both cases, Parrish, who retired in 2008 amid the controversy, committed prosecutorial misconduct by withholding evidence that could have been useful to the defense.

Smart on Crime Report

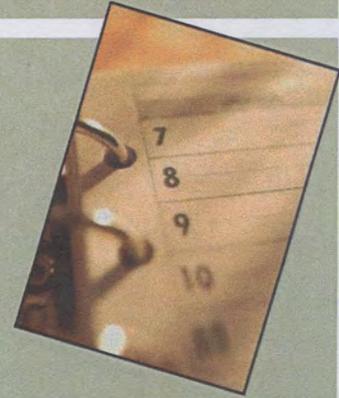
This report provides recommendations for the Administration and Congress by analyzing the problems plaguing our state and federal criminal justice systems and a series of recommendations to address these problems.

[Click here for the report.](#)



2011 Training Calendar

- July 26-29 **DAC/ODAA Annual Summer Conference**
Embassy Suites - Norman
3-Day Training for Prosecutors, Investigators, and VWC
- November 1-3 **DAC/ODAA Annual Fall Conference**
Doubletree Downtown Tulsa
2-Day Training for Prosecutor and Investigators
- December TBA **Elected District Attorneys Conference**
Location TBA
- December TBA **County Commissioner / District Attorney Training**
ACCO - OKC



NDAa Upcoming Courses

<http://www.ndaa.org/education/upcoming.html>



This project is supported by Award No. JR09-033 and awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice to the State of Oklahoma. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice.

2011 DAC/ODAA Summer Conference

July 26-29, 2011 - Embassy Suites Hotel, Norman, OK

Tuesday, July 26, 2011

11:00 a.m.-1:00p.m. District Attorneys Roundtable – Lunch (Open to Elected District Attorneys)
 1:00 p.m. Registration
 1:30 p.m. DAC Business Meeting
 3:00 p.m. ODAA Board of Directors
 4:00 p.m. Annual Membership Meeting
 5:00 p.m.-6:00 p.m. ODAA Hospitality – Embassy Suites Hotel & Conference Center
 6:30 p.m. Tour of the Barry Switzer Center and Football Facilities – Memorial Stadium, University of Oklahoma
 After Tour ODAA Hospitality – Embassy Suites Hotel & Conference Center

Wednesday, July 27, 2011 – Joint Session Morning Training (3.5 CLE & VWC) (3.0 CLEET)

7:45 a.m. Registration
 8:30 a.m. Announcements, Welcome & Introduction – Suzanne McClain Atwood, John Wampler, and Greg Mashburn
 8:45 a.m. Human Trafficking – Mark Elam
 10:15 a.m. Break
 10:30 a.m. Social Media and Juries – Professor Caren Myers Morrison and Judge Gregory E. Mize
 12:00 Noon Adjourn
 12:30 p.m. ODAA Golf Tournament – Belmar Golf Club

Afternoon

Various possible excursions are being planned.
 4:00-11:00 p.m. ODAA Hospitality – Embassy Suites Hotel & Conference Center

Thursday, July 28, 2011 Morning Training (3.5 CLE) (3.0 CLEET)

8:00 a.m. Registration
 9:00 a.m. A Case Study: Wisconsin v. Stancl – The Facebook Extortion Case – District Attorney Brad Schimel and Detective Forrest Clevestine
 10:00 a.m. Break
 10:15 a.m. Wisconsin v. Stancl – The Facebook Extortion Case (Continued)
 11:15 a.m. Break
 11:30 a.m. Wisconsin v. Stancl – The Facebook Extortion Case (Continued)
 12:30 p.m. Lunch On Your Own

Afternoon Training (3.0 CLE, including 1 of ethics) (2.0 CLEET MH Credits To Be Arranged)

1:45 p.m. Courtroom Technology –
 Lubbock County Criminal District Attorney Chief Investigator Todd Smith and Panel
 3:15 p.m. Break
 3:30 p.m. Seeking Justice (Ethics) – W.A. “Drew” Edmondson
 4:30 p.m. Adjourn for The Day
 6:30 p.m. Awards Dinner
 8:30-11:00 p.m. ODAA Hospitality – Embassy Suites Hotel & Conference Center

Friday, July 29, 2011 – Joint Session Morning Training (3.0 CLE) (2.5 CLEET)

8:00 a.m. Registration
 9:00 a.m. 2011 Oklahoma Legislative Update – Trent H. Baggett
 10:00 a.m. Break
 10:15 a.m. Using Technology to Stalk/Bully – Rebecca Dreke, Stalking Resource Center,
 National Center for Victims of Crime
 11:45 a.m. Adjourn Sine Die

