THE UNIVERSITY OF OKLAHOMA COLLEGE OF LAW

ADMINISTRATION

Kathleen Guzman, B.A., J.D., LL.M., Interim Dean of the College of Law, Interim Director of the Law Center, Earl Sneed Centennial Professor, MAPCO/Williams Presidential Professor, and Professor of Law.

Andrew M. Coats, B.A., J.D., Dean Emeritus, Director Emeritus, Samuel Roberts Noble Foundation Presidential Professor, Arch B. & Joanne Gilbert Professor, and Professor of Law.

Gail Mullins, B.S., J.D., Associate Dean for Academics, Assistant Dean of Experiential Learning, Director of Legal Writing, and Assistant Professor of Law.

Megan Wischmeier Shaner, B.S., J.D., Associate Dean for Research and Scholarship, and Professor of Law.

C. Brent Dishman, B.S., J.D., Assistant Dean of Student Affairs.

Stanley L. Evans, B.B.A., M.B.A., J.D., Assistant Dean.

Laura Palk, B.A., J.D., Assistant Dean of Development and Alumni Affairs, Adjunct Professor of Law.


Alicia Currin-Moore, B.A., J.D., Director, Office of Career Development.

David W. Dye, B.A., J.D., M.L.I.S., Director, Graduate and International Programs.

Rachel Egli, B.A., Director of Continuing Legal Education and Events.

Brian Griffith, A.A.S., Director of Information Technology.

Rebecca K. Hamrin, B.A., J.D., Director, Master of Legal Studies Healthcare Law Program and Oil, Gas, and Energy Law Program.

Peter C. Kraemer, B.A., M.A., M.A., Director of Faculty Support.

Camal Pennington, B.A., J.D., Director of Admissions.

Lisa Monsour Millington, B.A., J.D., Executive Director, Graduate & International Programs.

Amy Pepper, B.A., J.D., Director, OU Legal Clinics, Assistant Professor of Clinical Education.


Sunny Rowland, B.S., J.D., Director of Academic and Bar Support, and Director of Legal Assistant Education.

Connie S. Smothermon, B.A., J.D., Director of Competitions, Director of Externships, and Assistant Director and Assistant Professor of Legal Research & Writing.

Joel Wegemer, B.A., J.D., M.L.S., Interim Director of the Law Library and Adjunct Professor of Law.

Lizanne Carlson, B.A., J.D., Associate Director of Admissions.

Maddie Farris, B.A., J.D., Associate Director of Admissions.

Kayla Doiron, B.S., M.B.A., J.D., Associate Director of Career Development.

Elaine B. Bradshaw, B.M., M.A., M.L.I.S., Assistant Director for Collections and Digital Products.

Rebecca J. Lucas, Registrar and Study Abroad Coordinator.

Rebecca Morales, B.A., B.A., Events and Communications Coordinator.

Lisa Ross, Executive Assistant to the Dean.

FACULTY

Owen L. Anderson, B.A., J.D., Eugene Kuntz Chair in Law in Oil, Gas and Natural Resources Emeritus, George Lynn Cross Research Professor Emeritus, and Professor of Law Emeritus.
Carolina Arlota, LL.M., J.S.D., Visiting Assistant Professor of Law.
Evelyn Aswad, BSFS, J.D., Herman G. Kaiser Chair in International Law, and Professor of Law.
Mary Sue Backus, B.A., M.A.T., J.D., Robert Glenn Rapp Foundation Presidential Professor of Law.
Brenda H. Barnes, B.A., J.D., Assistant Professor of Clinical Legal Education.
Donald T. Bogan, A.B., J.D., Thomas P. Hester Presidential Professor, and Frank Elkouri and Edna Asper Elkouri Professor in Law.
Todd Buchwald, B.A., J.D., Visiting Professor of International Law.
Sarah Burstein, B.A., J.D., Professor of Law.
Andrew M. Coats, B.A., J.D., Dean Emeritus, Director Emeritus, Samuel Roberts Noble Foundation Presidential Professor, Arch B. & Joanne Gilbert Professor and Professor of Law.
Monika U. Ehrman, B.S, J.D., LL.M., Faculty Director, Oil & Gas, Natural Resources, and, Energy Center, and Associate Professor of Law.
Jonathan Forman, B.A., M.A., J.D., Kenneth E. McAfee Centennial Chair in Law.
Steven S. Gensler, B.S., J.D., Gene and Elaine Edwards Family Chair in Law, and President’s Associates Presidential Professor.
Mark R. Gillett, B.A., J.D., LL.M., Professor of Law Emeritus.
Katie Griffin, B.B.A., J.D., Visiting Professor of Legal Research and Writing.
Katheleen Guzman, B.A., J.D., LL.M., Interim Dean of the College of Law, Interim Director of the Law Center, Earl Sneed Centennial Professor, MAPCO/Williams Presidential Professor, and Professor of Law.
Taiawagi Helton, B.A., J.D., LL.M., W. DeVier Pierson Professor of Law, and Professor of Law.
Stephen E. Henderson, B.S., J.D., Judge Haskell A. Holloman Professor of Law.
Eric E. Johnson, B.A., J.D., Associate Professor of Law.
Kit Johnson, B.A., J.D., Associate Professor of Law.
Drew Kershen, B.A., J.D., Earl Sneed Centennial Professor of Law Emeritus.
F. Stephen Knippenberg, B.A., J.D., LL.M., Floyd H. and Martha Norris Chair in Law, and Professor of Law.
Maria T. Kolar, B.A., M.A., J.D., Visiting Assistant Professor of Law.
Peter F. Krug, B.A., M.S., Ph.D., J.D., Herman G. Kaiser Foundation Chair in International Law Emeritus, and Professor of Law Emeritus.
Peter B Kutner, A.B., J.D., Hugh Roff Professor of Law.
Lubomir P. Litov, B.S., M.S., Ph.D., Affiliate Associate Professor of Law.
Brian McCall, B.A., M.A., J.D., Orpha & Maurice Merrill Professor in Law.
William J. McNichols, A.B., J.D., Professor of Law Emeritus.
Eric E. Johnson, B.A., J.D., Assistant Professor of Legal Research and Writing.
Roger Michalski, B.A., J.D., Ph.D., Associate Professor of Law.
Frederick H. Miller, A.B., J.D., Professor of Law Emeritus.
Melissa Mortazavi, B.A., J.D., Associate Professor of Law.
Gail Mullins, B.S., J.D., Associate Dean for Academics, Assistant Dean of Experiential Learning, Director of Legal Writing, and Assistant Professor of Law.
Daniel Nicholson, B.A., J.D., Assistant Professor of Legal Research and Writing.
Joyce Palomar, B.S., M.A., J.D., Kenneth E. McAfee Chair in Law Emeritus, and Ada Lois Sipuel Fisher Presidential Professor of Law.
Alex Pearl, B.A., J.D., Professor of Law.
Tracy Hresko Pearl, B.A., M.Sc., J.D., Professor of Law.
Amy Pepper, B.A., J.D., Director, OU Legal Clinics, Assistant Professor of Clinical Education.
Osborne M. Reynolds, A.B., J.D., LL.M., S.J.D., Professor of Law Emeritus.
Robert E.L. Richardson, B.A., J.D., LL.M., Professor of Law Emeritus.
Lisa Richter, B.S., J.D., William J. Alley Professor of Law and Thomas P. Hester Presidential Professor of Law.
Theodore Roberts, B.S., J.D., Edith Kinney Gaylord Presidential Professor of Law, and Professor of Law Emeritus.
Lindsay G. Robertson, A.B., M.A., Ph.D., J.D., Faculty Director, Center for the Study of American Indian Law and Policy, Chickasaw Nation Endowed Chair in Native American Law, Sam K. Viersen Jr. Family Foundation Presidential Professor, and Professor of Law.

Michael A. Scaperlanda, B.A., J.D., Professor of Law Emeritus.

Zachary M. Schmook, B.S., J.D., Assistant Professor of Legal Research and Writing.

Megan Wischmeier Shaner, B.S., J.D., Associate Dean for Research and Scholarship, and Professor of Law.

Connie S. Smothermon, B.A., J.D., Director of Competitions, Director of Externships, and Assistant Director and Assistant Professor of Legal Research & Writing.

Robert G. Spector, B.S., J.D., Glenn R. Watson Centennial Chair in Law, and Professor of Law Emeritus.

Rennard Strickland, B.A., M.A., J.D., S.J.D., Senior Scholar in Residence.

David Swank, B.A., J.D., Dean Emeritus, and David Ross Boyd Professor of Law Emeritus.

Murray Tabb, B.A., M.A., J.D., LL.M., Judge Fred A. Daugherty Chair in Law, and David Ross Boyd Professor of Law.

Rebekah C. Taylor, B.A., J.D., Assistant Professor of Clinical Legal Education.

Rick Tepker, B.A., J.D., Floyd & Irma Calvert Chair of Law and Liberty, and Professor of Law.

Joseph T. Thai, A.B., J.D., Presidential Professor of Law, Glenn R. Watson Centennial Chair in Law, and Professor of Law.

Stacey Ann Tovino, B.A., J.D., Ph.D., Professor of Law.

This publication is issued online by the University of Oklahoma College of Law as authorized by Interim Dean Kathleen Guzman. It is available by subscription via Westlaw, Lexis, and HeinOnline, and at no charge via Digital Commons and the College of Law website.
Except as otherwise expressly provided, the author of each article in this volume has granted permission for copies of that article to be made for classroom or similar educational usage, provided that (1) copies are distributed at or below cost, (2) author, journal, date, and page are identified, (3) proper notice of copyright is affixed to each copy, and (4) the American Indian Law Review is notified of intended usage. In all other cases of proposed reproduction, the American Indian Law Review must be contacted for procedural requirements.

The American Indian Law Review online edition, ISSN 1930-7918, is edited and compiled at the University of Oklahoma College of Law, 300 Timberdell Road, Norman, Oklahoma 73019. The Review is published semiannually and is available online via Digital Commons, Westlaw, Lexis, HeinOnline, and the AILR’s website at http://www.ailr.net. Copyright 2020 by the American Indian Law Review.

Correspondence concerning article and note submissions, books for review, and all other editorial matters should be addressed to mwaters@ou.edu or by regular mail to the Editor-in-Chief, American Indian Law Review, University of Oklahoma College of Law, 300 Timberdell Road, Norman, Oklahoma 73019. For more information, call (405) 325-2840 or visit http://www.ailr.net.

Electronic submissions may be sent in one of two ways: (1) via the electronic submission services Scholastica or ExpressO, or (2) directly to the Review via mwaters@ou.edu. All versions of Microsoft Word and PDF formats are welcome. Writer’s guidelines are available to authors via email by request to mwaters@ou.edu, or online at http://www.ailr.net/guidelines.

Please follow The Bluebook: A Uniform System of Citation (20th ed.) for legal sources and the Chicago Manual of Style (17th ed.) for text.

Cite this issue as: 44 AM. INDIAN L. REV. _____ (2019-2020).
AMERICAN INDIAN LAW REVIEW

Members

ANNA BROOKS  DANIEL LEE
WILL COLLINS  RYAN NIGH
MCKAYLA HENDRIX  KENNEDY PORTER

Member Candidates

ALEXIS BARNES  ASHLEY MURPHY
MIKAELA BARN  LIBERTY RITCHIE
TARYN CHUBB  LIBBY SMITH
DYLAN HARTSOOK  KAYLEE SNYDER
GRANT LOWRY  ZACH YATES
MELANIE McGruder  JAKE YTURRI
LUCAS MEACHAM
ARTICLES
The Court of Indian Appeals: America’s Forgotten Federal Appellate Court
   Chief Judge Gregory D. Smith & Bailee L. Plemmons 211
Tribal Remedies, Exhaustion, and State Courts
   Pete Heidepriem 241

COMMENTS
“Thus in the Beginning All the World Was America”: The Effects of Anti-Protest Legislation and an American Conquest Culture in Native Sacred Sites Cases
   Elizabeth Hampton 289
The Cultural Property Conundrum: The Case for a Nationalistic Approach and Repatriation of the Moai to the Rapa Nui
   Annie Rischard Davis 333
Cooking Food Customs in the Pot of Self-Governance: How Food Sovereignty Is a Necessary Ingredient of Tribal Sovereignty
   Kate Ricart 369

NOTE
Analyzing the Implications of the Supreme Court’s Holding in Herrera v. Wyoming
   Andrew Rader 403

SPECIAL FEATURE
Winner, Best Appellate Brief in the 2020 Native American Law Student Association Moot Court Competition
   Emily Dennan & Emily McEvoy 423