

## University of Oklahoma College of Law

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# Praise Defenders, Not Just Prosecutors

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*The Norman Transcript*

Editor, The Transcript:

I read with interest your article Sunday, Nov. 29, regarding the well-intentioned Norman Citizens' Police Academy, and particularly its focus on the well-intentioned participation of one of our district judges, Thad Balkman. I have the pleasure of knowing Judge Balkman, and I appreciate the good motivations behind his comments.

However, all is not well in criminal justice in America, and certainly not in Oklahoma. Instead, we have systemic problems with funding indigent criminal defense, which is compounded in our state by unconstitutional practices like the revocation of bail when a citizen chooses her constitutional right to self-representation, and removal of defense counsel when a citizen posts bond.

In both situations the squeaky wheel seems to get the grease: a defendant who knows the magic words and has the gumption to push back receives her constitutional entitlements, but, of course, most indigent defendants have neither that knowledge nor that confidence.

So, how must it appear to these criminally accused when the very judges who preside over their trials, and thus determine the credibility of the police testifying, chum it up with police officers, becoming citizen enforcers who will help by providing "tips and information"?

How must it appear when those judges make blanket assertions about their confidence and pride in our police behaving entirely differently from those elsewhere in the country who violate constitutional rights or otherwise abuse their power?

Such a blurring of the judicial and executive roles, well-intentioned though it is in this case, creates at the very least an appearance of unfairness that distorts and diminishes the alleged independence of our judiciary upon which we rely for protection of our rights.

If our judges are to become citizen police officers, then I would ask them to become citizen public defenders as well. How much time do they spend with those attorneys, attempting to appreciate the Herculean task with which they are faced?

Indeed, I would ask all citizens much the same: if you are to put a sign in your yard supporting the police—as many Normanites have done—have you ever thought to support those relatively poorly paid and overworked attorneys who provide the first level of defense for the most precious constitutional rights of Americans? Most of us have not, and that is a shame.

We have too many ex-prosecutors as judges, and—if we are to have such a system rather than a truly independent judiciary with a separate judicial track—too few ex-defenders. And too many judges tend to have close relationships with those in power, rather than with those subject to that power.

It is worth noting that many of us will soon celebrate a holiday whose religion teaches that we are judged not by how we treat the exalted among us, but instead by how we treat the outcast. How odd, then, that we offer so little praise for the public defender, and so much for the police and prosecutor, and seem not to mind when our judiciary blurs into the latter.

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