

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	No. CF/CM
	)	JUDGE
John/Jane Smith,	)	
	)	
Defendant.	)	

**MOTION TO DISMISS & EXPUNGE**  
**PURSUANT TO 22 O.S. 991(c)**

The Defendant, John/Jane Smith, does hereby move the Court to dismiss and expunge the above referenced matter. The Defendant states the following:

1. On January 1, 1900, the defendant pled guilty and a three (3) year deferred sentence was entered on this matter.
2. A review was held on January 1, 1903. Expungement was denied.
3. The Defendant has now paid all costs and fees owed to the Tulsa County Court Clerk and Tulsa County District Attorney's office. The defendant has a zero balance.

**THEREFORE**, the Defendant requests that his/her plea of guilty/nolo contendere be withdrawn and the case be dismissed and expunged.

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,                    )  
  )  
  Plaintiff,                    )  
  )  
-vs-    )  
  )  
JOHN/JANE SMITH,                         )  
  )  
  Defendant.                    )

No. CF/CM

**ORDER OF EXPUNGEMENT**

This matter comes on for hearing on this the 1<sup>st</sup> day of January 1900, before the undersigned Judge. The Court finds that the defendant was charged with **COUNT 1:** \_\_\_\_\_, in the above entitled cause, and that the defendant entered a plea of **GUILTY/NOLO CONTENDRE** and that the Court accepted the plea and withheld a finding of guilt.

The Court further finds that the defendant has satisfactorily discharged his or her responsibilities as required by the conditions set out by the Court and that the defendant has thereby discharged his or her responsibilities to this matter without a judgment of guilty, and that the plea previously entered by the defendant shall be expunged from the record, and that the record of this charge shall be dismissed with prejudice to any further action all in accordance with Oklahoma State Statutes annotated Title 22 O.S. 991(c).

IT IS THEREFORE ORDERED ADJUSTED AND DECREED by the Court that the defendant be, and is hereby, allowed to withdraw his or her original plea and that upon the motion of the State of Oklahoma, this count of this case be, and the same is hereby, ordered **DISMISSED WITH PREJUDICE** to the filing of any further action.

IT IS FURTHER ORDERED BY THE COURT that the defendant's plea as shown above, **BE EXPUNGED** by the Court Clerk from the record of the Court.

Witness my hand this 1<sup>ST</sup> day of January 1900.

\_\_\_\_\_  
**JUDGE OF THE DISTRICT COURT**

# ***Beverly A. Atteberry, P.C.***

A Professional Corporation  
Attorney-at-Law

*\* Admitted to Practice in 1992*

*PO Box 420  
Tulsa, Oklahoma 74101  
[www.beverlyatteberry.com](http://www.beverlyatteberry.com)*

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February 20, 2019

Oklahoma State Bureau of Investigation  
6600 N. Harvey Avenue, Suite 300  
Oklahoma City, Oklahoma 73116

Re: State of Oklahoma v. John/Jane Smith, CF 1890-1

To Whom It May Concern:

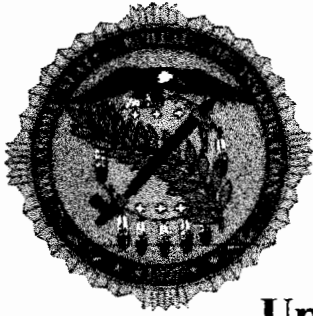
You will find enclosed a copy of the following documents:

1. Certified Order of Expungement filed on December 11, 2012.
2. Update Criminal History Record Request

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry



# OKLAHOMA STATE BUREAU OF INVESTIGATION

6600 North Harvey Place  
Oklahoma City, OK 73116  
(405) 848-6724

[http://www.ok.gov/osbi/Criminal\\_History/](http://www.ok.gov/osbi/Criminal_History/)

DATE \_\_\_\_\_

## Update Criminal History Record Request

### REQUESTOR INFORMATION: (Type or print clearly in blue or black ink)

REQUESTOR'S NAME \_\_\_\_\_  
LAST FIRST MIDDLE

STREET ADDRESS \_\_\_\_\_

PHONE NUMBER ( ) \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
Requestors outside of the United States are strongly encouraged to provide an e-mail address for purposes of correspondence.

E-MAIL ADDRESS \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_/\_\_\_\_/\_\_\_\_ SOCIAL SECURITY #: \_\_\_\_-\_\_\_\_-\_\_\_\_

SIGNATURE OF REQUESTING PARTY: *Bobby A. Atteberry, attorney*

LIST ANY ALIASES OR MAIDEN NAMES: \_\_\_\_\_

### ARREST / CHARGE INFORMATION: (Type or print clearly in blue or black ink, if more space is needed use separate sheet)

Date of Arrest		
Arrested For		County of Arrest
Charged With		
Court Case Number		
Final Disposition		
Date of Arrest		
Arrested For		County of Arrest
Charged With		
Court Case Number		
Final Disposition		
Date of Arrest		
Arrested For		County of Arrest
Charged With		
Court Case Number		
Final Disposition		

Attach the **CERTIFIED** documents required as noted on the UPDATING CRIMINAL RECORDS instruction web page at: [http://www.ok.gov/osbi/Criminal\\_History/Update\\_Your\\_Criminal\\_History\\_Record/index.html](http://www.ok.gov/osbi/Criminal_History/Update_Your_Criminal_History_Record/index.html)

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November 27, 2018

John/Jane Smith

Re: State of Oklahoma v. John/Jane Smith, CF-1890-1

Dear Mr/Ms. Smith:

You will find enclosed a copy of the following documents:

1. An Order of Expungement filed on January 29, 2019

A certified copy of the order plus an Update Criminal History Record Request has been sent to the Oklahoma State Bureau of Investigation.

This Order removes this matter from the Oklahoma Supreme Court Network and seals the court file.

*If felony (I would include the following language):*

(This Order does not remove the arrest from your record. You will be eligible to file a Petition for Expunge in five (5) years per current Oklahoma State Law.

Please contact my office in five (5) years if you wish to have the arrest expunged from your record.)

*If misdemeanor (I would include the following language):*

(This Order does not remove the arrest from your record. You will be eligible to file a Petition for Expunge in one (1) year per current Oklahoma State Law.

Please contact my office in one (1) year if you wish to have the arrest expunged from your record.)

You will need to keep this copy of the Order in fireproof/safety deposit box. It is the only copy that the Court will provide to you in this matter.

If you have any questions, please let me know.

Sincerely,  
Beverly A. Atteberry

**1861 East 15<sup>th</sup> Street, Tulsa, Oklahoma 74104**



**Title 22. Criminal Procedure**

**└ Oklahoma Statutes Citationized**

**└ Title 22. Criminal Procedure**

**└ Chapter 16 - Judgment and Execution**

**└ Suspension of Judgment and Sentence (continued)**

**└ Section 991c - Deferred Sentence**

Cite as: 22 O.S. § 991c (OSCN 2019), Suspension of Judgment and Sentence (continued)

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A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a seven-year period, except as authorized under subsection B of this section. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs;
2. Pay an assessment in lieu of any fine authorized by law for the offense;
3. Pay any other assessment or cost authorized by law;
4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;
5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;
6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;
7. Be supervised in the community for a period not to exceed eighteen (18) months, unless a petition alleging violation of any condition of deferred judgment is filed during the period of supervision. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the inability of the person to pay a fee;
8. Pay into the court fund a monthly amount not exceeding Forty Dollars (\$40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;
9. Make other reparations to the community or victim as required and deemed appropriate by the court;
10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title; or
11. Any combination of the above provisions.

However, unless under the supervision of the district attorney, the offender shall be required to pay Forty Dollars (\$40.00) per month to the district attorney during the first two (2) years of probation to compensate the district attorney for the costs incurred during the prosecution of the offender and for the additional work of verifying the compliance of the offender with the rules and conditions of his or her probation. The district attorney may waive any part of this requirement in the best interests of justice. The court shall not waive, suspend, defer or dismiss the costs of prosecution in its entirety. However, if the court determines that a reduction in the fine, costs and costs of prosecution is warranted, the court shall equally apply the same percentage reduction to the fine, costs and costs of prosecution owed by the offender.

B. When the court has ordered restitution as a condition of supervision as provided for in subsection A of this section and that condition has not been satisfied, the court may, at any time prior to the termination or expiration of the supervision period, order an extension of supervision for a period not to exceed three (3) years.

C. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon the ability of a person to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from review by the general public. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years of experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the

Oklahoma Statutes; and

2. A victims impact panel program, as defined in subsection H of Section 991a of this title, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program and approved by the court to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

D. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of *nolo contendere* to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the record of the defendant shall be as follows:

1. All references to the name of the defendant shall be deleted from the docket sheet;
2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;
3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;
4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court or upon written request by the named defendant to the court clerk for the purpose of updating the criminal history record of the defendant with the Oklahoma State Bureau of Investigation; and
5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

Records expunged pursuant to this subsection shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to this subsection shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of such records.

E. The provisions of subsection D of this section shall be retroactive.

F. Whenever a judgment has been deferred by the court according to the provisions of this section, deferred judgment may not be accelerated for any technical violation unless a petition setting forth the grounds for such acceleration is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the acceleration of the judgment is presented to the court at a hearing to be held for that purpose. The hearing shall be held not more than twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. Any acceleration of a deferred sentence based on a technical violation shall not exceed ninety (90) days for a first acceleration or five (5) years for a second or subsequent acceleration.

G. Upon any violation of the deferred judgment, other than a technical violation, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.



H. The deferred judgment procedure described in this section shall apply only to defendants who have not been previously convicted of a felony offense and have not received more than one deferred judgment for a felony offense within the ten (10) years previous to the commission of the pending offense.

Provided, the court may waive this prohibition upon written application of the district attorney. Both the application and the waiver shall be made a part of the record of the case.

I. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act.

J. All defendants who are supervised pursuant to this section shall be subject to the sanction process as established in subsection B of Section 991b of this title.

### ***Historical Data***

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Laws 1970, SB 262, c. 312, § 2; Amended by Laws 1976, SB 571, c. 160, § 3, eff. October 1, 1976; Amended by Laws 1979, HB 1278, c. 66, § 2, emerg. eff. April 16, 1979; Amended by Laws 1981, HB 1185, c. 15, § 1, eff. October 1, 1981; Amended by Laws 1982, HB 1484, c. 8, § 2, emerg. eff. March 15, 1982; Amended by Laws 1984, SB 337, c. 10, § 1, eff. November 1, 1984; Amended by Laws 1985, HB 1368, c. 112, § 8, eff. November 1, 1985; Amended by Laws 1988, HB 1973, c. 109, § 27, eff. November 1, 1988; Amended by Laws 1990, HB 2217, c. 152, § 2, eff. September 1, 1990; Amended by Laws 1992, SB 843, c. 151, § 2, eff. September 1, 1992; Amended by Laws 1992, SB 764, c. 357, § 5, emerg. eff. July 1, 1992; Amended by Laws 1993, HB 1727, c. 166, § 2, eff. September 1, 1993; Amended by Laws 1993, SB 581, c. 360, § 3, eff. September 1, 1993; Amended by Laws 1994, HB 2299, c. 2, § 10, emerg. eff. March 2, 1994; Amended by Laws 1994, SB 758, c. 308, § 2, emerg. eff. June 7, 1994; Amended by Laws 1995, SB 119, c. 193, § 3, emerg. eff. July 1, 1995; Amended by Laws 1995, SB 258, c. 286, § 6, emerg. eff. July 1, 1995; Amended by Laws 1996, SB 1087, c. 304, § 2, emerg. eff. June 10, 1996; Amended by Laws 1997, HB 1213, c. 133, § 70 (effective date amended to July 1, 1999, by Laws 1998, 1st Extr. Sess., HB 1002, c. 2, §§ 23-26, emerg. eff. June 19, 1998) (superseded document available); Amended by Laws 1999, HB 1623, c. 359, § 1, eff. November 1, 1999 (repealed by Laws 2000, HB 2711, c. 6, § 33, emerg. eff. March 20, 2000); Amended by Laws 1999, 1st Extr. Sess., HB 1009, c. 5, § 21, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 1999, 1st Extr. Sess., HB 1009, c. 4, § 27, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2000, HB 2711, c. 6, § 5, emerg. eff. March 20, 2000 (superseded document available); Amended by Laws 2000, HB 2552, c. 349, § 6, eff. November 1, 2000 (superseded document available); Amended by Laws 2001, SB 397, c. 437 § 18, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2002, SB 1536, c. 460, § 20, eff. November 1, 2002 (superseded document available); Amended by Laws 2004, SB 1401, c. 145, § 1, emerg. eff. April 20, 2004 (repealed by Laws 2005, HB 2060, c. 1, § 19, emerg. eff. March 15, 2005); Amended by Laws 2004, HB 2445, c. 275, § 12, emerg. eff. July 1, 2004 (superseded document available); Amended by Laws 2005, HB 2060, c. 1, § 18, emerg. eff. March 15, 2005 (superseded document available); Amended by Laws 2005, HB 1267, c. 374, § 2, eff. November 1, 2005 (superseded document available); Amended by Laws 2010, HB 2168, c. 113, § 2 (superseded document available); Amended by Laws 2013, HB 1328, c. 80, § 2 (superseded document available); Amended by Laws 2013, HB 1743, c. 175, § 2, eff. November 1, 2013 (superseded document available); Amended by Laws 2014, SB 1875, c. 219, § 1, eff. November 1, 2014 (superseded document available); Amended by Laws 2015, HB 1855, c. 209, § 1, eff. November 1, 2015 (superseded document available); Amended by Laws 2018, SB 689, c. 128, § 12, eff. November 1, 2018 (superseded document available).

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,            )  
  )  
  Plaintiff,            )  
  )  
-vs-    )  
  )  
JOHN/JANE SMITH,                    )  
  )  
  Defendant.            )

No. CF/CM \_\_\_\_\_  
Judge \_\_\_\_\_

**DEFENDANT’S MOTION TO ACCELERATE DEFERRED REVIEW DATE**

The Defendant, John/Jane Smith, does hereby move the Court Accelerate the Deferred Review Date in the above referenced matter. The Defendant states the following:

1. On January 1, 1900, the defendant entered a plea of guilty as to the charge of \_\_\_\_\_.
2. The court set a deferred review date for July 30, 2013 at 9 a.m. The court ordered the Defendant to pay a \$350.00 court fund assessment, \$50 victim’s compensation fund, court costs, supervision by the Tulsa County District Attorney’s office.
3. The Defendant has paid a full 18 months of probation fees to the Tulsa County District Attorney’s office. (Exhibit A)
4. The Defendant has paid all fees, assessments and costs to the Tulsa County Court Clerk’s office. (Exhibit B)

**THEREFORE** the Defendant requests that his review date be accelerated to a date earlier than July 30, 2013.

# OKLAHOMA STATE BUREAU OF INVESTIGATION

Criminal History Record Information Request  
6600 North Harvey Place  
Oklahoma City, OK 73116  
(405) 848-6724  
(405) 879-2503 FAX  
[http://www.ok.gov/osbi/Criminal\\_History/](http://www.ok.gov/osbi/Criminal_History/)

**Type Of Search Requested:**

Name Based - \$15.00  
 Sex Offender - \$2.00  
 Mary Rippy Violent Offender - \$2.00  
 State Fingerprint-based - \$19.00  
\* Must provide fingerprint card.  
\* Includes name based search.

DATE \_\_\_\_\_

Request Submitted via:  
 Fax  Mail  In Person  
**REQUESTS WILL BE RETURNED  
IN THE MANNER RECEIVED.**

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Mail requests should include postage-paid reply envelope.

Fax requests must include payment by credit card and a dedicated Fax Phone Line for return of completed search:  
( ) \_\_\_\_\_

**ACCEPTABLE FORMS OF PAYMENT:**  CASH  CASHIER'S CHECK / MONEY ORDER  
 BUSINESS CHECK *No Personal Checks Accepted.*  CREDIT CARD *For Visa, MasterCard and Discover, security code is 3 digits on back of card. For Amex, security code is 4 digits on front. These are the only cards accepted.*

CREDIT CARD # \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_ SECURITY CODE \_\_\_\_\_

CARD HOLDER \_\_\_\_\_  
*Please print the name of the individual card holder as it appears on the credit card.*

CARD HOLDER SIGNATURE (REQUIRED) \_\_\_\_\_

**REQUESTOR INFORMATION: (Type or print clearly in blue or black ink)**

REQUESTOR'S NAME \_\_\_\_\_ SIGNATURE OF REQUESTING PARTY \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

PHONE NUMBER ( ) \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ E-MAIL ADDRESS \_\_\_\_\_  
*Requestors outside of the United States are strongly encouraged to provide an e-mail address for purposes of correspondence.*

PURPOSE OF REQUEST \_\_\_\_\_

**SUBJECT INFORMATION: (Type or print clearly in blue or black ink)**  
Forms with corrections done with white out or by striking through the fields in this section will not be processed.

NAME \_\_\_\_\_  
LAST FIRST MIDDLE

ALIAS/MAIDEN NAME(S) \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ (MM/DD/YYYY). *If date of birth is unavailable, include exact age of subject.*

RACE \_\_\_\_\_ SEX \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

**SEARCH RESULTS (Please do not write in the spaces below):**

Oklahoma State Bureau of Investigation  
Computerized Criminal History

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Oklahoma Department of Corrections  
Sex Offender

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Oklahoma Department of Corrections  
Violent Offender

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*Unless fingerprint cards are provided, record information is furnished solely on the basis of name or description similarity with the subject of your inquiry.*

*For questions on the Sex Offender / Violent Offender Registry, please contact the Oklahoma Department of Corrections.*

## EXPUNGEMENT

### ALL FINES, COURT COSTS, PROBATION FEES & RESTITUTION MUST BE PAID IN FULL.

#### YES.

1. Acquittal
2. Dismissed by Appeals Court
3. Reversed by Appeals Court & Dismissed by District Attorney
4. DNA dismissal
5. Pardon with Innocence Finding
6. Arrest – No charges filed (Statute of Limitation has Expired or DA is not going to file)
7. Under 18 at time of charge & Pardon Granted
8. False Identification by Another Person

#### NO FELONY CONVICTIONS & NO PENDING CHARGES

1. Charges Dismissed – (Statute of Limitations has Expired or DA is not going to file). The dismissal if not be from a deferred sentence.

#### DEFERRED SUCCESSFULLY COMPLETED

1. Misdemeanor/traffic offense – No felony convictions, no pending charges, 1 year since dismissal.
2. Felony (nonviolent) – no felony conviction, no pending charges, 5 years since dismissal.

#### DEFERRED NOT COMPLETED

1. Not completed by review date, however has now been completed.

#### MISDEMEANOR/TRAFFIC CONVICTIONS

1. Fine Only less than \$501.00 (no suspended probation or jail). No felony convictions & no pending charges.
2. Fine greater than \$500.00, suspended sentence and/or jail. No felony convictions, no pending charges, 5 years since end of last sentence.

#### FELONY CONVICTIONS (NON-VIOLENT, is not listed in 57 O.S. Sec. 571)

1. Only 1 felony conviction – pardon has NOT been granted, NO other felony/misdemeanor convictions in the last seven (7) years, no pending charges and five (5) years has passed since the completion of the sentence for the felony conviction.
2. Only 2 felony convictions – pardon granted, NO other felony convictions, no pending charges, 20 years has passed since the last conviction on these cases.

## **STATUTE OF LIMITATIONS**

Murder: no statute of limitations

Bribery; embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or any subdivision thereof; or misappropriation of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision; falsification of public records of the state or any county, school district, municipality or subdivision; and conspiracy to defraud the state or any county, school district, municipality or other subdivision: 7 years

Embezzlement or misappropriation of public money, bonds, securities, assets or property of any school district; falsification of public records of any independent school district; criminal conspiracy; embezzlement; False Personation or Identity Theft; or the financial exploitation of a vulnerable adult: 5 years after discovery

State income tax law violations: 5 years

Rape or forcible sodomy; sodomy; lewd or indecent acts against children; pornography involving minors; child abuse; and child trafficking: 12 years after the discovery.

If victim notified law enforcement within 12 years after discovery of the crime and DNA evidence is used to establish identity of offender: within 3 years after suspect's identity is established by DNA evidence

Oklahoma Wildlife Conservation Code violations: 3 years

Criminal fraud or workers' compensation fraud: 3 years after discovery, up to a maximum of 7 years after date of offense

False or bogus check: 5 years

Solicitation for 1<sup>st</sup> degree murder: 7 years after discovery of crime

Any other public offense: 3 years

Accessory after the fact: same statute of limitations as the underlying felony

Arson: 7 years

Felonies or attempted felonies with a deadly weapon: 7 years

**IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA**

<b>JOHN/JANE SMITH,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. MI 2019-</b>
	)	
<b>STATE OF OKLAHOMA,</b>	)	
	)	
<b>Respondent.</b>	)	

**PETITION TO EXPUNGE CRIMINAL RECORD**  
**UNDER 22 O.S. § 18 & 19**

The Petitioner, JOHN/JANE SMITH, appears by and through counsel and requests that this Court enter an Order Expunging Criminal Record under 22 O.S. § 18 & 19 shows the following in support:

1. CF 1890-1 (NF 1899-43) was filed with the charge of Obtaining Merchandise by Bogus Check. The charge was amended to a misdemeanor. The Petitioner entered a plea of guilty on April 5, 1994. A sentence of 1 year (suspended) plus fines and costs was entered.

Title 22 O.S. § 18 provides that:

A persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;

3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to conviction, including a person who has been released from prison at the time innocence was established;
4. The person has received a full pardon on the basis of a written finding by the Governor of actual innocence for the crime for which the claimant was sentenced;
5. The person was arrested and no charges of any type, including charges for an offense different than that for which the person was originally arrested, are filed and the statute of limitations has expired or the prosecuting agency has declined to file charges;
6. The person was under eighteen (18) years of age at the time the offense was committed and the person has received a full pardon for the offense;
7. The person was charged with one or more misdemeanor or felony crimes, all charges have been dismissed, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and the statute of limitations for refiling the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be refiled; provided, however, this category shall not apply to charges that have been dismissed following the completion of a deferred judgment or delayed sentence;
8. The person was charged with a misdemeanor, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and at least one (1) year has passed since the charge was dismissed;
9. The person was charged with a nonviolent felony offense, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and at least five (5) years have passed since the charge was dismissed;
10. The person was convicted of a misdemeanor offense, the person was sentenced to a fine of less than Five Hundred One Dollars (\$501.00) without a term of imprisonment or a suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine, the person has not been convicted of a felony, and no felony or misdemeanor charges are pending against the person;

11. The person was convicted of a misdemeanor offense, the person was sentenced to a term of imprisonment, a suspended sentence or a fine in an amount greater than Five Hundred Dollars (\$500.00), the person has not been convicted of a felony, no felony or misdemeanor charges are pending against the person, and at least *five (5) years* have passed since the end of the last misdemeanor sentence;

12. The person was convicted of a nonviolent felony offense, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has not been convicted of any other felony or separate misdemeanor in the last seven (7) years, no felony or misdemeanor charges are pending against the person and at least five (5) years have passed since the completion of the sentence for the felony conviction;

13. The person was convicted of not more than two nonviolent felony offenses, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for both of the nonviolent felony offenses, no felony or misdemeanor charges are pending against the person, and at least twenty (20) years have passed since the last misdemeanor or felony conviction; or

14. The person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used the person's name or other identification without the person's consent or authorization.”

Petitioner has met all the conditions and qualifications specified in 22 O.S. § 18, thereby entitling petitioner to expungement of his/her arrest and all related court proceedings of the above-mentioned offense.

Wherefore, Petitioner requests that:

1. The records of Petitioner’s arrest and all related court proceedings for the above-mentioned violations be expunged from all relevant reporting databases.
2. The clerk of the Tulsa County District Court and the OSBI seal the records listed under the aforementioned case and/or arrest number, and forbidding the records from being inspected or divulged to any person, except for good cause shown and upon order of



a competent court; and

3. Petitioner be granted such other and further relief as this court may deem proper.

Respectfully submitted,

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Beverly A. Atteberry, OBA #14856  
PO Box 420  
Tulsa, Oklahoma 74101  
(918) 605-1913  
beverlyatteberry@aol.com

ATTORNEY FOR PETITIONER

## CERTIFICATE OF MAILING

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a true and correct copy of the foregoing Petition and Order Setting Hearing was mailed by depositing same in the U.S. Mail, certified, return receipt requested, with first class prepaid postage affixed thereon to:

Oklahoma State Bureau of Investigation  
6600 N. Harvey Avenue, Suite 300  
Oklahoma City, Oklahoma 73116

Tulsa County District Attorney  
500 S Denver  
Tulsa, OK 74103

Don Newberry, Court Clerk  
Tulsa County Courthouse  
500 S Denver  
Tulsa, OK 74103

Sheriff Vic Regalado  
Tulsa County Sheriff's Office  
303 W. 1<sup>st</sup> St.  
Tulsa, OK 74103

Tulsa Police Department  
600 Civic Center  
Tulsa, OK 74103

David L. Moss Correctional Facility  
300 N. Denver Ave.  
Tulsa, OK 74103

Oklahoma Department of Corrections  
PO Box 11400  
Oklahoma City, OK 73136-0400

---

Beverly A. Atteberry

# ***Beverly A. Atteberry, P.C.***

A Professional Corporation  
Attorney-at-Law

*\* Admitted to Practice in 1992*

*PO Box 420  
Tulsa, Oklahoma 74101  
[www.beverlyatteberry.com](http://www.beverlyatteberry.com)*

*Telephone 918-605-1913  
Facsimile 918-744-6300  
Email: [baatteberry@attorney.com](mailto:baatteberry@attorney.com)*

November 22, 2011

Oklahoma State Bureau of Investigation  
6600 N. Harvey Avenue, Suite 300  
Oklahoma City, Oklahoma 73116

Tulsa County District Attorney  
500 S Denver Ave., Suite 900  
Tulsa, OK 74103

Tulsa County Courthouse  
500 S Denver Ave  
Tulsa, OK 74103

Tulsa County Sheriff's Office  
Faulkner Bldg.  
Tulsa, OK 74103

Tulsa Police Department  
600 Civic Center  
Tulsa, OK 74103

David L. Moss Correctional Facility  
300 N. Denver Ave.  
Tulsa, OK 74103

Re: John/Jane Smith v. State of Oklahoma, MI 1900-1

To Whom It May Concern:

You will find enclosed a copy of the following documents:

1. Petition to Expunge Criminal Record filed on November 22, 2011
2. Order filed on November 22, 2011
3. Proposed Order

The hearing is set on February 21, 2012 at 9:00 a.m. before Judge Smith in the Tulsa County Courthouse.

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry

**IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA**

<b>JOHN/JANE SMITH,</b>	)	
<b>a/k/a JETHRO SMITH,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. MI 1900-1</b>
	)	<b>CM 1895-1</b>
<b>STATE OF OKLAHOMA,</b>	)	<b>CF 1895-1</b>
	)	<b>NF 1895-1</b>
<b>Respondent.</b>	)	

**ORDER OF EXPUNGEMENT**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the Petitioner, John/Jane Smith, a/k/a Jethro Smith, appears before the court. His/Her attorney, Beverly A. Atteberry, appears on her/his behalf and respectfully requests that this Court enter an Order of Expungement in the above referenced arrest and cases.

This Court finds notice of defendant’s motion to expunge records has been served on the following: Oklahoma State Bureau of Investigation; Tulsa County Court Clerk; Tulsa County District Attorney; Tulsa County Sheriff’s Office, Tulsa Police Department, David L. Moss Correctional Facility; Oklahoma Department of Corrections, and Oklahoma Highway Patrol/Department of Public Safety. This Court further finds that all individuals required to be served by statute to obtain an expungement of criminal records have been served, and that none lodges an objection. This Court therefore finds that proper notice has been served on all parties required by statute and that the order of expungement should issue.

This Court therefore finds, having reviewed all the pertinent documents, the history of this case, and heard argument of counsel and input from all interested parties, John/Jane Smith a/k/a Jethro Smith’s criminal and arrest records should be expunged pursuant to 22 O.S. secs. 18 and 19. For purposes of this Order, expungement of records shall mean the sealing of all criminal arrest records held by any law enforcement agency to which this Order applies.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the criminal court and arrest records of John/Jane Smith [REDACTED] date of Birth: 01/01/1880, SSN 123-45-6789, in the above-referenced matter shall be expunged by the Oklahoma State Bureau of Investigation, the Tulsa County Court Clerk's Office, the Tulsa County Sheriff's Office, the Tulsa County District Attorney's Office, the Tulsa Police Department, the David L. Moss Correctional Facility, the Oklahoma Department of Corrections and the Oklahoma Highway Patrol/Department of Public Safety in accordance with the language of 22 O.S. secs. 18 and 19. This Court further finds that nothing in this Order requires the expungement or purging of internal records of the Tulsa County District Attorney's Office.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** pursuant to 22 O.S. secs. 19(H), physical destruction of any criminal justice records is prohibited by law. Pursuant to 22 O.S. sec. 19(C) and (G), basic identification information is not subject to sealing.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that if the Expungement qualifies under 22 O.S. sec 18 (A), Paragraphs 8, 9, 10, 11, 12, 13 or 14, then the records shall be sealed to the public, but available to law enforcement agencies for law enforcement purposes under 22 O.S. sec 18 (D)

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** the above findings are hereby made the order of this Court and will govern the rights, duties, and obligations of the parties hereto.

---

Judge of the District Court

**READ AND APPROVED AS TO FORM:**

---

Beverly A. Atteberry, OBA #14856  
PO Box 420  
Tulsa, Oklahoma 74101-0420  
918-605-1913  
Attorney for the Petitioner

---

OBA #

Oklahoma State Bureau of Investigation  
6600 N Harvey  
Oklahoma City, OK 73116  
Legal Counsel

Re: Smith, MI 1900-1

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, OBA #  
500 S Denver Ave., Suite 900  
Tulsa, Oklahoma 74103  
918-596-4805  
Assistant District Attorney for Tulsa County

Re: Smith, MI 1900-1

---

OBA #

City of Tulsa  
Assistant City Attorney  
175 East 2<sup>nd</sup> Street., Suite 685  
Tulsa, OK 74103  
Legal Counsel

Re: Smith, MI 1900-1



# ***Beverly A. Atteberry, P.C.***

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Email: [b.atteberry@attorney.com](mailto:b.atteberry@attorney.com)*

March 3, 2019

John/Jane Smith  
12345 E. 1<sup>st</sup> St.  
Tulsa, OK 74123

Re: John/Jane Smith vs. State of Oklahoma, MI-1900-1

Mr./Ms. Smith:

Your case has been set for a hearing on the 22<sup>nd</sup> day of January 2019 at 9:00am before Judge Smith on the 4<sup>th</sup> Floor of the Tulsa County Courthouse.

You are not required to attend this hearing.

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry

# ***Beverly A. Atteberry, P.C.***

A Professional Corporation  
Attorney-at-Law

*\* Admitted to Practice in 1992*

*PO Box 420  
Tulsa, Oklahoma 74101*

*Telephone 918-605-1913  
Facsimile 918-744-6300  
Email: [baatteberry@attorney.com](mailto:baatteberry@attorney.com)*

January 23, 2013

Oklahoma State Bureau of Investigation  
6600 N. Harvey Avenue, Suite 300  
Oklahoma City, Oklahoma 73116

Re: John/Jane Smith v. State of Oklahoma, MI 1900-1 & CF 1890-1

To Whom It May Concern:

You will find enclosed a copy of the following documents:

1. Certified Order of Expungement filed on December 11, 2012.
2. Check # \_\_\_\_\_ in the amount of \$150.00

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry

# ***Beverly A. Atteberry, P.C.***

A Professional Corporation  
Attorney-at-Law

*\* Admitted to Practice in 1992*

*PO Box 420  
Tulsa, Oklahoma 74101*

*Telephone 918-605-1913  
Facsimile 918-744-6300  
Email: [baatteberry@bbaaatt.com](mailto:baatteberry@bbaaatt.com)*

January 31, 2019

John/Jane Smith  
12345 E. 1<sup>st</sup> St.  
Tulsa, OK 74123

Re: John/Jane Smith Vs. State of Oklahoma, MI 1903-1, CF 1900-1

Dear Mr./Ms. Smith:

You will find enclosed a copy of the following documents:

1. Certified Order of Expungement filed on January 31, 2019 (2 copies).

All certified copies have been sent to all agencies involved in your matter.

I would recommend that you keep at least one of the Certified Order's in a safety deposit/fire box for safekeeping.

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry

# ***Beverly A. Atteberry, P.C.***

A Professional Corporation  
Attorney-at-Law

*\* Admitted to Practice in 1992*

*PO Box 420  
Tulsa, Oklahoma 74101*

*Telephone 918-605-1913  
Facsimile 918-744-6300  
Email: [baatteberry@attorney.com](mailto:baatteberry@attorney.com)*

February 27, 2019

John/Jane Smith

Re: John/Jane Smith vs. State of Oklahoma, MI 1900-1, CF 1890-1

Dear Mr/Ms. Smith:

You will find enclosed a copy of the following documents:

1. Certified Order of Expungement filed on February 27, 2019 (2 copies).

All certified copies have been sent to all agencies involved in your matter.

I would recommend that you keep at least one of the Certified Order's in a safety deposit/fire box for safekeeping.

*This Expungement does **NOT** mean that you can possess a firearm and/or ammunition. The Laws of the State of Oklahoma are unclear at this time about your status.*

If you have any questions, please let me know.

Sincerely,

Beverly A. Atteberry



**Title 22. Criminal Procedure**

**↓ Oklahoma Statutes Citationized**

**↓ Title 22. Criminal Procedure**

**↓ Chapter 1 - In General**

**≡ Section 18 - Expungement of Criminal Records**

Cite as: 22 O.S. § 18 (OSCN 2019)

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A. Persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;
3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to conviction, including a person who has been released from prison at the time innocence was established;
4. The person has received a full pardon on the basis of a written finding by the Governor of actual innocence for the crime for which the claimant was sentenced;
5. The person was arrested and no charges of any type, including charges for an offense different than that for which the person was originally arrested, are filed and the statute of limitations has expired or the prosecuting agency has declined to file charges;
6. The person was under eighteen (18) years of age at the time the offense was committed and the person has received a full pardon for the offense;
7. The person was charged with one or more misdemeanor or felony crimes, all charges have been dismissed, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person and the statute of limitations for refiling the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be refilled; provided, however, this category shall not apply to charges that have been dismissed following the completion of a deferred judgment or delayed sentence;
8. The person was charged with a misdemeanor, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person and at least one (1) year has passed since the charge was dismissed;
9. The person was charged with a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person and at least five (5) years have passed since the charge was dismissed;

10. The person was convicted of a misdemeanor offense, the person was sentenced to a fine of less than Five Hundred One Dollars (\$501.00) without a term of imprisonment or a suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine, the person has not been convicted of a felony and no felony or misdemeanor charges are pending against the person;

11. The person was convicted of a misdemeanor offense, the person was sentenced to a term of imprisonment, a suspended sentence or a fine in an amount greater than Five Hundred Dollars (\$500.00), the person has not been convicted of a felony, no felony or misdemeanor charges are pending against the person and at least five (5) years have passed since the end of the last misdemeanor sentence;

12. The person was convicted of a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has not been convicted of any other felony or separate misdemeanor in the last seven (7) years, no felony or misdemeanor charges are pending against the person and at least five (5) years have passed since the completion of the sentence for the felony conviction;

13. The person was convicted of not more than two nonviolent felony offenses, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for both of the nonviolent felony offenses, no felony or misdemeanor charges are pending against the person, and at least twenty (20) years have passed since the last misdemeanor or felony conviction; or

14. The person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used the person's name or other identification without the person's consent or authorization.

B. For purposes of Section 18 et seq. of this title, "expungement" shall mean the sealing of criminal records, as well as any public civil record, involving actions brought by and against the State of Oklahoma arising from the same arrest, transaction or occurrence.

C. For purposes of seeking an expungement under the provisions of paragraph 10, 11, 12 or 13 of subsection A of this section, offenses arising out of the same transaction or occurrence shall be treated as one conviction and offense.

D. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12, 13 and 14 of subsection A of this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12 and 13 of subsection A of this section shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of the records. Records expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of this section may also include the sealing of Pardon and Parole Board records related to an application for a pardon. Such records shall be sealed to the public but not to the Pardon and Parole Board.

#### ***Historical Data***

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Laws 1987, HB 1153, c. 87, § 1, emerg. eff. May 14, 1987; Amended by Laws 1992, SB 843, c. 151, § 1, eff. September 1, 1992; Amended by Laws 1997, SB 440, c. 397, § 1, emerg. eff. June 10, 1997 (superseded document available); Amended by Laws 2000, SB 1496, c. 382, § 9, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2002, SB 1536, c. 460, § 14, eff. November 1, 2002; Amended by Laws 2002, HB 2790, c. 475, § 1 (repealed by Laws 2003, HB 1816, c. 3, § 18, emerg. eff. March 19, 2003) (superseded document available); Amended by Laws 2003, HB 1816, c. 3, § 17, emerg. eff. March 19, 2003 (superseded document available); Amended by Laws 2004, SB 1502, c. 272, § 1, eff. November 1, 2004;

Amended by Laws 2004, SB 1164, c. 406, § 1, emerg. eff. July 1, 2004 (superseded document available); Amended by Laws 2008, HB 3031, c. 46, § 1, eff. November 1, 2008; Amended by Laws 2008, SB 1648, c. 75, § 1, eff. November 1, 2008 (repealed by Laws 2009, SB 764, c. 2, § 8, emerg. eff. March 12, 2009) (superseded document available); Amended by Laws 2009, SB 764, c. 2, § 7, emerg. eff. March 12, 2009 (superseded document available); Amended by Laws 2012, HB 3091, c. 18, § 2, eff. November 1, 2012 (superseded document available); Amended by Laws 2014, SB 2140, c. 374, § 1, eff. November 1, 2014 (superseded document available); Amended by Laws 2015, SB 412, c. 397, § 2, eff. November 1, 2015 (superseded document available); Amended by Laws 2016, HB 2397, c. 348, § 1, eff. November 1, 2016 (superseded document available); Amended by Laws 2018, SB 650, c. 127, § 1, eff. November 1, 2018 (superseded document available).

### **Citationizer® Summary of Documents Citing This Document**

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<b>Cite Name</b>	<b>Level</b>
<b>Oklahoma Attorney General's Opinions</b>	
<i>Cite</i>	<i>Name</i> <span style="float: right;"><i>Level</i></span>
<u>2017 OK AG 12</u>	<u>Question Submitted by: Kimberly Glazier, Executive Director, Oklahoma Board of Nursing</u> <span style="float: right;">Discussed at Length</span>
<b>Oklahoma Court of Criminal Appeals Cases</b>	
<i>Cite</i>	<i>Name</i> <span style="float: right;"><i>Level</i></span>
<u>2007 OK CR 16, 157 P.3d 1155</u>	<u>SMITH v. STATE</u> <span style="float: right;">Cited</span>
<b>Oklahoma Court of Civil Appeals Cases</b>	
<i>Cite</i>	<i>Name</i> <span style="float: right;"><i>Level</i></span>
<u>2008 OK CIV APP 1, 175 P.3d 966</u>	<u>BUECHLER v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2009 OK CIV APP 1, 219 P.3d 562</u>	<u>HOLDER v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2010 OK CIV APP 29, 231 P.3d 757</u>	<u>HIGGINS v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2011 OK CIV APP 61, 253 P.3d 1007</u>	<u>KOLASKI v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2012 OK CIV APP 84, 285 P.3d 715</u>	<u>ROGERS v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2012 OK CIV APP 85, 286 P.3d 296</u>	<u>OLSON v. STATE</u> <span style="float: right;">Discussed at Length</span>
<u>2014 OK CIV APP 80, 335 P.3d 275</u>	<u>KOHLI v. OKLAHOMA STATE BUREAU OF INVESTIGATION</u> <span style="float: right;">Discussed at Length</span>
<u>2017 OK CIV APP 68, 407 P.3d 790</u>	<u>STATE v. SHADE</u> <span style="float: right;">Discussed at Length</span>
<b>Oklahoma Supreme Court Cases</b>	
<i>Cite</i>	<i>Name</i> <span style="float: right;"><i>Level</i></span>
<u>2005 OK 32, 120 P.3d 861</u>	<u>IN RE ADOPTION OF SUPREME COURT RULES FOR EXPUNGEMENT OF RECORDS</u> <span style="float: right;">Cited</span>
<u>2009 OK 18, 204 P.3d 87</u>	<u>IN RE DE-ANNEXATION OF CERTAIN REAL PROPERTY</u> <span style="float: right;">Cited</span>
<u>2010 OK 70, 240 P.3d 702</u>	<u>IN THE MATTER OF THE APPLICATION OF SPILMAN</u> <span style="float: right;">Discussed at Length</span>
<u>2011 OK 84, 264 P.3d 1197</u>	<u>STATE ex rel. OKLAHOMA BAR ASSOCIATION v. MOTHERSHED</u> <span style="float: right;">Discussed</span>
<u>2017 OK 97, 408 P.3d 586</u>	<u>PARSONS v. DISTRICT COURT OF PUSHMATAHA COUNTY</u> <span style="float: right;">Cited</span>



**Title 57. Prisons and Reformatories**

**▾ Oklahoma Statutes Citationized**

**▾ Title 57. Prisons and Reformatories**

**▾ Chapter 8A - Oklahoma Prison Overcrowding Emergency Powers Act**

**▾ Section 571 - Definitions**

Cite as: 57 O.S. § 571 (OSCN 2019)

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As used in the Oklahoma Statutes, unless another definition is specified:

1. "Capacity" means the actual available bedspace as certified by the State Board of Corrections subject to applicable federal and state laws and the rules and regulations promulgated under such laws;
2. "Violent crime" means any of the following felony offenses and any attempts to commit or conspiracy or solicitation to commit the following crimes:
  - a. assault, battery, or assault and battery with a dangerous or deadly weapon, as provided for in Sections 645 and 652 of Title 21 of the Oklahoma Statutes,
  - b. assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of Title 21 of the Oklahoma Statutes,
  - c. aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law, as provided for in Section 650 of Title 21 of the Oklahoma Statutes,
  - d. poisoning with intent to kill, as provided for in Section 651 of Title 21 of the Oklahoma Statutes,
  - e. shooting with intent to kill, as provided for in Section 652 of Title 21 of the Oklahoma Statutes,
  - f. assault with intent to kill, as provided for in Section 653 of Title 21 of the Oklahoma Statutes,
  - g. assault with intent to commit a felony, as provided for in Section 681 of Title 21 of the Oklahoma Statutes,
  - h. assaults with a dangerous weapon while masked or disguised, as provided for in Section 1303 of Title 21 of the Oklahoma Statutes,
  - i. murder in the first degree, as provided for in Section 701.7 of Title 21 of the Oklahoma Statutes,
  - j. murder in the second degree, as provided for in Section 701.8 of Title 21 of the Oklahoma Statutes,
  - k. manslaughter in the first degree, as provided for in Section 711 of Title 21 of the Oklahoma Statutes,
  - l. manslaughter in the second degree, as provided for in Section 716 of Title 21 of the Oklahoma Statutes,
  - m. kidnapping, as provided for in Section 741 of Title 21 of the Oklahoma Statutes,
  - n. burglary in the first degree, as provided for in Section 1431 of Title 21 of the Oklahoma Statutes,
  - o. burglary with explosives, as provided for in Section 1441 of Title 21 of the Oklahoma Statutes,
  - p. kidnapping for extortion, as provided for in Section 745 of Title 21 of the Oklahoma Statutes,



- q. maiming, as provided for in Section 751 of Title 21 of the Oklahoma Statutes,
- r. robbery, as provided for in Section 791 of Title 21 of the Oklahoma Statutes,
- s. robbery in the first degree, as provided for in Section 797 et seq. of Title 21 of the Oklahoma Statutes,
- t. robbery in the second degree, as provided for in Section 797 et seq. of Title 21 of the Oklahoma Statutes,
- u. armed robbery, as provided for in Section 801 of Title 21 of the Oklahoma Statutes,
- v. robbery by two or more persons, as provided for in Section 800 of Title 21 of the Oklahoma Statutes,
- w. robbery with dangerous weapon or imitation firearm, as provided for in Section 801 of Title 21 of the Oklahoma Statutes,
- x. child abuse, as provided for in Section 843.5 of Title 21 of the Oklahoma Statutes,
- y. wiring any equipment, vehicle or structure with explosives, as provided for in Section 849 of Title 21 of the Oklahoma Statutes,
- z. forcible sodomy, as provided for in Section 888 of Title 21 of the Oklahoma Statutes,
- aa. rape in the first degree, as provided for in Section 1114 of Title 21 of the Oklahoma Statutes,
- bb. rape in the second degree, as provided for in Section 1114 of Title 21 of the Oklahoma Statutes,
- cc. rape by instrumentation, as provided for in Section 1111.1 of Title 21 of the Oklahoma Statutes,
- dd. lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, as provided for in Section 1123 of Title 21 of the Oklahoma Statutes,
- ee. use of a firearm or offensive weapon to commit or attempt to commit a felony, as provided for in Section 1287 of Title 21 of the Oklahoma Statutes,
- ff. pointing firearms, as provided for in Section 1279 of Title 21 of the Oklahoma Statutes,
- gg. rioting, as provided for in Section 1311 of Title 21 of the Oklahoma Statutes,
- hh. inciting to riot, as provided for in Section 1320.2 of Title 21 of the Oklahoma Statutes,
- ii. arson in the first degree, as provided for in Section 1401 of Title 21 of the Oklahoma Statutes,
- jj. injuring or burning public buildings, as provided for in Section 349 of Title 21 of the Oklahoma Statutes,
- kk. sabotage, as provided for in Section 1262 of Title 21 of the Oklahoma Statutes,
- ll. criminal syndicalism, as provided for in Section 1261 of Title 21 of the Oklahoma Statutes,
- mm. extortion, as provided for in Section 1481 of Title 21 of the Oklahoma Statutes,
- nn. obtaining signature by extortion, as provided for in Section 1485 of Title 21 of the Oklahoma Statutes,
- oo. seizure of a bus, discharging firearm or hurling missile at bus, as provided for in Section 1903 of Title 21 of the Oklahoma Statutes,
- pp. mistreatment of a mental patient, as provided for in Section 843.1 of Title 21 of the Oklahoma Statutes,
- qq. using a vehicle to facilitate the discharge of a weapon pursuant to Section 652 of Title 21 of the Oklahoma

Statutes,

rr. bombing offenses as defined in Section 1767.1 of Title 21 of the Oklahoma Statutes,

ss. child pornography or aggravated child pornography as defined in Section 1021.2, 1021.3, 1024.1 or 1040.12a of Title 21 of the Oklahoma Statutes,

tt. child prostitution as defined in Section 1030 of Title 21 of the Oklahoma Statutes,

uu. abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility,

vv. aggravated trafficking as provided for in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes,

ww. aggravated assault and battery upon any person defending another person from assault and battery, as provided for in Section 646 of Title 21 of the Oklahoma Statutes,

xx. human trafficking as provided for in Section 748 of Title 21 of the Oklahoma Statutes, or

yy. terrorism crimes as provided in Section 1268 et seq. of Title 21 of the Oklahoma Statutes.

Such offenses shall constitute exceptions to nonviolent offenses pursuant to Article VI, Section 10 of the Oklahoma Constitution.

### **Historical Data**

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Laws 1984, SB 445, c. 97, § 2, emerg. eff. April 4, 1984; Amended by Laws 1984, SB 9, c. 275, § 1, emerg. eff. May 31, 1984; Amended by Laws 1993, SB 467, c. 276, § 10, emerg. eff. May 27, 1993; Amended by Laws 2001, SB 397, c. 437, § 30, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2007, SB 905, c. 358, § 10, emerg. eff. July 1, 2007 (superseded document available); Amended by Laws 2007, HB 1327, c. 166, § 1, eff. November 1, 2007 (repealed by Laws 2008, SB 1830, c. 3, § 30, emerg. eff. February 28, 2008) (superseded document available); Amended by Laws 2008, SB 1830, c. 3, § 29, emerg. eff. February 28, 2008 (superseded document available); Amended by Laws 2015, SB 412, c. 397, § 1, eff. November 1, 2015 (superseded document available); Amended by Laws 2018, HB 2286, c. 117, § 4, eff. November 1, 2018 (superseded document available).

### **Citationizer® Summary of Documents Citing This Document**

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<b>Cite Name</b>	<b>Level</b>
<b>Oklahoma Attorney General's Opinions</b>	
<i>Cite</i>	<i>Name</i> <span style="float: right;"><i>Level</i></span>
<u>2000 OK AG 55</u>	<u>Question Submitted by: James L. Saffle, Director, Oklahoma Department of Corrections</u> <span style="float: right;">Cited</span>
<u>2004 OK AG 2</u>	<u>Question Submitted by: The Honorable Jeff Rabon, State Senator, District 5</u> <span style="float: right;">Cited</span>
<u>2006 OK AG 25</u>	<u>Question Submitted by: The Honorable Kenneth Corn, State Senator, District 4</u> <span style="float: right;">Discussed at Length</span>
<u>2008 OK AG 14</u>	<u>Question Submitted by: The Honorable Shane D. Jett, State Representative, District 27</u> <span style="float: right;">Discussed</span>