Interview with Dean Andrew M. Coats

January 22, 2009

KEK: Hello, this is Karen Kalnins, I am a reference librarian at the Oklahoma City University Law Library and today is Thursday, January 22, 2009. It’s about 9:30, yeah it’s about 9:30 in the morning and I am here in Norman, Oklahoma speaking with Dean Coats. He is the Dean of the University of Oklahoma Law School and this interview is part of the broader oral history project that the Oklahoma City University Law Library is sponsoring. As a part of that project we are interviewing attorneys and judges throughout the state of Oklahoma. So, welcome Dean Coats.

AMC: Thank you, good morning.

KEK: It’s, I was really pleased that you agreed to this interview. So, what drew you to the law Dean?

AMC: I think it was something of a misapprehension of how important my abilities to articulate an idea. I spent a lot of time in speech contests, speech tournaments when I was in high school and that led to going down to the courthouse even in my high school days and watching trials. And my father had a couple of friends who were lawyers and I had an uncle who was a lawyer and they would let me know when a good trial was going on and so many times I would leave school around 3 o’clock and watch the last couple hours of a trial. So, it was something that I always thought I wanted to do since I can remember from my early days.

KEK: Very interesting. So was there anybody in your family that was an attorney?

AMC: I did have my father’s brother was a lawyer. He was the litigation leader for Halliburton Oil Company when Halliburton was in Duncan, Oklahoma, when their headquarters were down there and then he later practiced here in Oklahoma City. That was some impetus in that direction but more importantly, I’ve always been impressed with people who can take one side of a case or an argument and make the presentation meaningful and appropriate for the circumstances and hopefully, persuasive.

KEK: Very good, very good. How did you get on the track then to go ahead and go to law school?

AMC: Well, it was interesting, I went through OU undergraduate school on a Navy scholarship and received…in those days it was like an extension of the Naval Academy and I received a regular Navy commission upon graduation. And, I was aboard ship for a while and then was assigned to Taiwan as an advisor to the Chinese government there. And I served there for three years and was offered a really nice job with the Chinese Air Transport called CAT Airways out there. Had I stayed in Taiwan, several friends of mine did and became very wealthy, I should obviously…financially it would have been a good thing to do but I had always wanted to go to
law school so after three years in the Navy I came back, joined the OU class of, it started in 1960 and spent three years here at OU graduating in ’63. Which I think was a great period in my life, I really loved law school, had an extraordinarily able and delightful classmates and it was a great time here at OU in those years.

KEK: It sounds like it. Let’s go back to your naval service. Tell me about that, what kinds of things did you do?

AMC: Well, it was very interesting; we were involved in two or three aspects of the protection of Taiwan. I was at the United States Taiwan Defense Command, USTDC, and I had been aboard ship as a young officer and just got orders out of the blue to go to Taiwan as an advisor. Later I think I discovered why. There was a professor here at OU named Percy Buchanan who was a… he headed up what was known as the Institute of Asiatic Affairs when I studied as an undergraduate for history and I took all the courses he offered. History of Japan, history of China, history of the Far East generally, he was a remarkable man and I found out later that he was also the recruiter at the university for the CIA. I could not go to the CIA, he found out early that I was committed to go to the Navy because they were paying my way through school and I was part of that regular Navy program. But I ran into him in Taiwan. After I had been there a month or two, I was at the Friends of China club and Dr. Buchanan always took a group of OU students to the Far East in the summertime and he was there. And I said, “Dr. Buchanan, I’m very surprised to see you here.” He says, “I’m not surprised to see you here.” So, I think some way through the back door he arranged for me to get transferred to Taiwan since I had a little Chinese and I had a lot of Chinese history and background which I think was helpful in understanding what went on there. We worked on a daily basis with our colleagues in the Chinese Navy and military and it was an interesting time. Part of that time the Chinese Communists began to shell what was known as the off-shore islands. There were two islands that were owned by the Nationalist Chinese called Kinman or Quemoy here, in China they called it Kinman, Quemoy, and Matsu. The Chinese communists they were well within range of artillery from the continent and the Chinese began shelling and I was responsible at that time for the communications between Taipei and these two islands. I couldn’t go out there because I had a top secret cryptographic clearance. They were sure there was going to be an invasion and they didn’t want anybody with a high security clearance on the island. But I had enlisted people who worked for me out there. They never did invade and it went away, we took some damage and some people were injured and it was not a great thing in terms of warfare in the world but it was an interesting time. So I enjoyed very much my three years there, almost stayed but really wanted to come back to go to law school.

KEK: Now, with your top secret clearance, what types of things were you privy to?

AMC: Well, they were doing over-flights, U2 over-flights over China every day and so the intelligence people would, had to send out their reports back to the CINCPAC which was the
commander in chief of the seventh fleet which was in Honolulu and then onto to Washington. The people that worked for me and I was somewhat responsible for getting those reports communicated back to the brass, high brass in other places. Then also I had the responsibility, which was kind of an odd one, of being the frequency coordinator so that all the Chinese airplanes and ships and stations and ours didn’t try to transmit over the same radio frequencies because it would be a terrible mish-mash if they did. They all had to be assigned to various frequencies and trying to keep up with all that was one of my collateral responsibilities and it was a very interesting time.

**KEK:** It certainly sounds like it. And do you, do you speak Chinese?

**AMC:** Hung chao. I speak a little, I spoke more thirty years ago or forty years ago when I was there and I haven’t had a chance to use it much over the years. I can understand a little bit and I can, the vocabulary is a little weak but as far as getting around, getting a taxi, finding a bathroom, that sort of thing I can get by.

**KEK:** And, have you been back since….

**AMC:** I have, it was interesting, when I was mayor of Oklahoma City Taipei was a sister city of Oklahoma City and I was back three times. A lot of it has been in conjunction with Oklahoma City University. Oklahoma City University in those days was attracting quite a number of students from Taiwan and Jerry Walker was the President, Stuart Strasner was the Dean of the law school and we were all great friends. So we traveled together in Taiwan and so I went back officially as the mayor of Oklahoma City for sister city types of…building relationships, but also to help campaign to some degree to peak students’ interests in coming to OCU. We certainly had the opportunity to do that so I was back three different times and it had changed a lot, the world had turned over out there and when I went by Taipei was a little, dusty, Chinese town and when I came back it was Dallas. I mean five lane highways, skyscrapers and all the things that had happened in the twenty-five years since I had been gone.

**KEK:** So, you certainly saw some changes there?

**AMC:** It was amazing, absolutely amazing. That economy became one of the five most active economies in the world.

**KEK:** Okay, well, let’s go back to your law school days, is there anything in particular that you remember or any professor that you remember that especially influenced you or affected you?

**AMC:** Oh, there were several of them that I was…became very close to over the years. Maurice Merrill who was our constitutional law professor, I thought was one of the finest legal minds I had ever run across. Earl Sneed was the Dean of the college and a very bright, charming man I was…in my senior year I was his research assistant. It helped pay my way through school
by working for him in those years. We had a wonderful faculty and I think everybody recognizes they were not easy. In those days there was a great flunkout rate. You only had to be vertical and have ninety hours to get into law school but they flunked out about a third of the class every year. My class started with 150 in 1960 and graduated a 100. We recently had the fiftieth anniversary of the class of 1958; they started 126 and graduated 68. Now there’s a little bit of time when some of the people went away to the service but there were also people coming back out of the service in those years. So, it’s probably pretty much a mix so they were getting rid of a third or forty percent of the classes were flunking out so it was not a user-friendly sort of school. They expected you to pick it up and do well, and there was not much handholding or support. So, it was very challenging and I had had several friends that had flunked out. And so, there was, there always is among 1L students a good deal of paranoia anyway, but we were all pretty concerned about it and the work was put in and the challenges that were met were remarkable. The ones that finished turned out many of them turned out to be great lawyers and judges and leaders in our state. So, I think that was a great process. Obviously, that’s turned around today. If you get into school down here, why 95 percent will graduate, more than 95 percent will pass the bar, and more than 95 percent will have a job within three months of graduation. So, that’s all changed a lot but mostly because there was not the great number of people trying to get into law school. But the law school weeded them out, those that were not suited for it; those who would not have done well on the LSAT for example would never graduate.

KEK: What do you think about those changes between the way legal education here was done when you went as opposed to now and the weeding process? What do you think?

AMC: I think it’s probably a better system now. It’s a terrible emotional tragedy for somebody to tell all his friends and neighbors that he’s going to be a lawyer and go to law school and then flunk out. That is really a very difficult blotch on your life and a real setback so it’s a lot better if we can do the screening on the front end I think and let those people who have applied to law school but for one reason or another are not academically suited to be able to face the challenges that law school brings. To not spend the time and effort and money that is necessary to go through a year or two of law school before flunking out. I think that’s… in terms of the human equation, it’s much better if we can do that on the front end. So, once you’re here, willing to do the work, we know that you can do the work that you’re able to do it, and then be able to get through school and graduate, pass the bar, and get on with your life.

KEK: Describe that front end weeding process that the university here does, if you can.

AMC: Sure, with most law schools around America these days it is pretty much a numbers game. Most law schools like ours uses a formula which puts about 50 percent of the value on your undergraduate grade average and about 50 percent on the L-S-A-T, the law school admissions test to determine who should be entered. Now, we do a full background investigation
and we do a full file review so if there have been other problems along the way, even with good grades, good numbers, you might not get in. But basically like I understand at the University of Texas they’ll admit about 600 people into their class but the admissions committee will only look at about 150 or 200 files because some with their numbers are clearly not going to get in and some with their numbers clearly are going to get in, and it’s the ones that are close are the ones that they have to spend time looking at. That’s a little bit of what we do, I mean we spend a little more time probably looking at the ones in the kind of middle levels, there are some that…the L-S-A-T has turned out to be a pretty good predictor. When I see somebody that has had trouble with the bar or somebody has not done as well in school as we would have expected them to, it’s nearly always because they had a great grade average but they didn’t have quite as good LSAT scores. It’s a little bit like trying to predict and you can’t predict 100 percent because the work ethic gets involved at some level. But with some people, the issues and the legal problems leap right off the page and some people just don’t register on them and it’s not a matter of intelligence, it’s not a matter of previous training, it’s a matter of some peculiar skill that helps students learn to analyze and that’s what the LSAT measures. So, it isn’t a bad way to go about doing it and law students now know, or students in college now know that getting into law school is almost as difficult as getting into medical school. When I was in school all the pre-med students worked really hard and the rest of us didn’t knock ourselves out because we knew we would go to law school and it didn’t really matter, your law school grades were what was important, and your undergraduate wasn’t. Now I wish I had not bought so much into that philosophy but nonetheless I did have a great time in undergraduate school. But nonetheless the focus was on your law school grades. Here, I think people have understood that you can’t do that, if you haven’t done well along the way and so there is more focus and more motivation I think for the students coming out of high school to do well in college. I hope that’s the case.

**KEK:** What do you think about the current, I know that there’s been some call to sort of revamp the LSAT or you know, look at different things, what do you think about this?

**AMC:** Well, we’re always open to new ideas and new concepts, but this has served us pretty well when you consider how great success our students are having on bar exams around the country. The bar exams are not only a test of the students, they are a test of us I think. If we’ve done a good job in creating the…in helping them understand the legal concepts that are necessary for them to do well then we’re doing well. So, we view that both as a test of us and a test of them. We’ve been 97, 98 percent on the Oklahoma Bar, 100 percent sometimes on the mid-term bar but our students are also graduating very successfully from the New York Bar, the California Bar, Kansas, and Colorado and Texas. We think we’re the number one school in Texas on bar passage rates which is an interesting thing since we’re not in Texas. We do teach courses in Texas Civil Procedure so that they can take that on the bar. A lot of our very best students go to Texas, many of them after five or six years want to come back but we do lose a number to Texas, to the big firms where they are paid extraordinary salaries.
KEK: Those are wonderful numbers, in terms of bar passage rates. What do you think of the ABA’s call to tie bar passage rates to a law school’s accreditation or…?

AMC: I think there have to be some minimums. If your students aren’t passing it something on the 75 to 80 percent, 70 to 75 to 80 percent, I know the Pennsylvania Bar and California Bar and New York Bar are about 50 percent passage rates, I mean they really are tough. If you’re not getting into that rate it seems to me you’re not providing the students with what they need to have. Either you are not hard enough on them so you’re making them work hard enough, or for some reason they’re not working hard enough. Or, the subject matter is not being taught as it should be. So, I think some relationship to the historical patterns of the school in terms of their ability to get people to pass the bar exam. I mean we all in academics all know that’s just where you start, that’s the basics. But it certainly ought to be something that a student is capable of doing when they come out with a law degree, after they’ve spent the time and money and effort. Many of them come out 150, 200,000 dollars in debt and if they haven’t much chance to pass the bar exam, that they haven’t really done very well. We’re very proud of our work with the minority persons. We’ve been 100 percent on our black students that pass the bar, 100 percent rate the last several years. We had one guy who got a migraine in the middle of it and didn’t but the rest of them, they passed very well. We want to encourage of course, we think that in the years ahead, the diversity in our country needs to be reflected in the diversity of the judicial system. There need to be black people and Hispanics and Asians and all sorts of people in America involved as prosecutors and judges and defense lawyers and in the criminal process particularly, jurors. But to do that we need to encourage minority students to come. However, you have to be careful that you don’t set people up to fail so, be careful of who you take and then give them all the support you can while they’re here and we’ve been very successful. I think we were 28 percent last year with minorities, I think we have more American Indian students than any law school in America and we’ve really tried to do that and we think that’s been a successful program and one that continues nurturing because it’s important.

KEK: And what other types of things do you try to do to encourage minorities, both to come to the University of Oklahoma and then also once they’re here, to stay and to succeed?

AMC: Well, we really have mentor programs and we have work by my Associate Dean for Students, he’s an African-American and he’s very good in helping inspire the younger black students to come forward, put out the effort to do the work and he pays a lot of attention to each one of them, takes a lot of care with them and we’ve just been so pleased at the quality we’ve been getting and the results that they’ve been having in terms of not only grades but also in terms of…and we’re beginning to see the big firms in the city recognize that as they begin to hire some of our African-American students which is a very good thing.

KEK: That is a good thing. That is definitely a good thing. Well, let’s go back to you; you said that you graduated in 1963.
AMC: I did.

KEK: What was your first position out of law school?

AMC: Well, it kind of...we need to go back a little bit. I worked the first summer with the firm of Pierce, Monk, and Duncan in Oklahoma City which was a trial firm primarily insurance defense, they were primarily, tried lots of automobile accidents or some products liability cases and that sort of thing. So, I worked there the first summer and they had some very fine trial lawyers. And I was able to...we still had jury terms in June in those days, they didn’t have...they had bench trials in July and August, no jury terms because of the air conditioning, they didn’t want to put the juries through a tough time. So, but I got there in mid-May so I was able, for six weeks, to very quickly get in to help and work with them going through some jury trials and then some bench trials. They were in depositions and we didn’t have interrogatories or requests for admissions in those days, that came a little later but you did...you could take oral depositions and so I was able to work with them and they were a really fine firm. Then my second year, my summer, I was invited to work for Crowe and Dunlevy, at that time it was a much longer name, but that was the firm and it was the biggest and oldest firm in the state and really a fine group. I thought VP Crowe was the finest trial lawyer in Oklahoma. We also had Bill Holloway who was later on the Tenth Circuit was there as a trial lawyer. William Paul, Willie Paul was there and he was later President of the American Bar Association. Ben Burdick, who was a fine trial lawyer and graduate of Yale with the first class after World War II which had Sergeant Shriver, Nick Katzenbach, and lots of great people in it was in that group. So when I went with the firm...and then John Swinford, whose father had been a professor down here and who was really fine commercial trial lawyer, those were the people that I was assigned to work with when I came to the firm in the summer of 1963. I had hoped to have a little time off. We went through our graduation exercises on Sunday afternoon and I got home that evening and had a call from Mr. Crowe saying, “I had a client coming in tomorrow morning and I’d like for you to be there.” So I went to the office, I didn’t get there until about 8:30 and I did have an office and on my desk was a big file and a note that said 8:00 o’clock, written, underlined twice. He had been there earlier and dropped off the file. So, I started and I practiced law without a license for I guess, two months or something, before I could take the bar and get through and get into full-time law practice. But it’s a great group, they’re fine gentlemen. There was one woman in the firm and she was an Associate Counsel, she was not a member of the firm and it was like being invited into a very fine fraternity because they were truly fine lawyers, their later experiences established that. And very careful lawyers, not particularly...I would say, financially outstanding lawyers like some of the plaintiff’s lawyers are today I mean, there were no great, big fees generated in those days. They lived well, supported their families and all, belonged to the country club but it was not a time or place of great wealth. But I enjoyed very much those early years in watching and learning my profession and I attribute my successes as a trial lawyer later to those early years. Mr. Crowe was an absolute bearcat on preparation. His view was that
it was 10 percent inspiration and 90 percent perspiration. One of the great lines that I’ve always loved…we were sitting in his office and he had a new client, a new file, and Bill Holloway who was an extraordinarily fine legal mind, and Will Paul and me and we were all sitting there. We were joking around about it and then he said, “You know boys we could sit here and talk about the law or we could go look it up.” We all got up and we got out, starting pulling books and looking it up. Before he went to trial he wanted the books, he always said he wanted a case, he actually didn’t believe a case was right on point unless the parties’ names were the same. So, we had a lot of work. We did find him one, one time where one of the parties’ names was the same which I thought was pretty close, a slip and fall case with Francis Herbert. But anyway, he was an extraordinarily fine lawyer, worked us hard, not very generous with his statements unless you really did a good job. I remember after being there four or five years we were preparing to try a case, a false arrest case for Safeway Stores and we met on Sunday afternoon to go over the stuff together and about 3:30 he closed his file and he said, “You know, I think we’re ready for trial.” Nobody will understand, but those were, that was the most glowing praise that anybody could ever have down there. The idea that at 3:30 on Sunday afternoon we were ready to go to trial on Monday, brother, I mean that was remarkable. We had it all put together and we were ready to go.

KEK: That’s wonderful. What do you feel like you learned, both from your internship and your early years there at Crowe Dunlevy?

AMC: I think you tend to follow and copy the way in which the people you start practicing law with, the way they deal with clients and each other and other lawyers. I think it was a great time. In those days in Oklahoma City, you really knew every other lawyer in town; the way that other lawyers were treated and the way in which they could get together and work out a settlement in a complicated case. The way in which you could believe what the other lawyer told you. So many times Mr. Crowe would come up and pull you aside and ask, “What have you got on this case? What’s your witness going to say?” And then you would go try the case. I mean, you didn’t spend hours and hours and years and years in discovery, you worked it out until you were comfortable or you tried the lawsuit and it was much more economically feasible to try a case than it is these days. I mean the price of litigation has gone up so much that people can’t really afford the system and that’s tragic. The way you did it was…you could trust the lawyer on the other side because you knew you were going to deal with him again. You figured out once in a while there was somebody you couldn’t trust and their life was a lot harder. The ones you could trust, and this is what I’ve always told the young people, you don’t ever misstate the law or the facts to another lawyer or to the judge. I mean, you tell them what you’ve got, don’t make it any better or any worse, they’ll find out. It was because I saw the way these people who I thought were just the finest kinds of people as well as being extraordinary lawyers the way that they conducted their practice, conducted themselves and dealt with each other inside the firm and dealt with those outside.
KEK: What do you think about those changes now where litigation does tend to drag out and there is a lot more paperwork than obviously there was back then. What do you think about that?

AMC: I think it’s a real tragedy of our time that we have focused so much on discovery and eliminating any possible… the idea is to go to trial without knowing some extraneous fact somewhere that we’re spending huge amounts of time and money and energy in discovery in major cases rather than just going ahead and doing a limited amount of discovery and getting the case to trial and getting it disposed of. That’s what the courthouse is supposed to do, it’s supposed to resolve disputes and so often you get mired down in the work and the cost gets to be so enormous that it really is not a very effective mechanism for doing what it was intended to do. Most of the time judges spend their time in resolving discovery disputes and conducting mock trials and conducting mediations and arbitrations and other things that really… they’d be better off if they just hook the lawsuit up and go try it. It seems to me that judges these days spend more time trying not to try cases than they do trying them. I think that the idea of getting it under some control, have some limited discovery, hook it up and try it. For example, I tried a case some years ago involving a young man who had died of tongue cancer and he sued the snuff company and I represented the snuff company along with a couple other lawyers. The discovery we had to do cost the company almost 10 million dollars to do the response to the document requests. We had to read every piece of paper in the company, it was a national company, there were offices in seven or eight cities across the country and sub-offices elsewhere. We had to read every piece of paper, bring them into New York, have people go through them picking out the ones that responded to various things, we had huge rooms up there full of legal assistants and secretaries and lawyers going through the documents day…all day, every day for pretty close to a month. Then we looked at something on the order of 4 million documents and they… we turned over to them something on the order of 700,000 documents as a response and we won the case. Of course there was no way to recover any of that money, it was his mother that brought the lawsuit and there wasn’t any… So, it’s just a terrible burden to have to do that and they didn’t really find anything that they didn’t already much know anyway going in. So, it’s a typical example of how it seems to me we have burdened the system with extraordinary amounts of discovery out there which I think there have been some ways to try to curtail it which are now getting into trying to do electronic discovery and having to take computers apart and go back in and search in the hard drives to find e-mails that were sent or drafts of letters that were sent years before which is extraordinarily expensive and burdensome and I’m not sure it’s worth the effort.

KEK: Absolutely, absolutely. How long were you at Crowe and Dunlevy?

AMC: Well, I still am actually so I’ve been there off and on all my professional life. I left in 1976. David Boren persuaded me that I should go be the District Attorney for Oklahoma County. It was a significant financial haircut to go do that but I had believed always in public service and the district attorney had died. The office had been not well taken care of for a lot of years and the governor at the time wanted to appoint someone who was outside the office. And
through a guy named Boston Smith who had been a District Judge and with a judge’s counsel persuaded me to…I had known David Boren’s father reasonably well and I knew who David was, but I didn’t work for him, I worked for him a little bit when he ran for governor but not a lot. So I was surprised and obviously I had been at Crowe 13 years by that time and had been a partner for 5 years. I was beginning to make a nice living and to give that up and go and work for what they paid district attorneys in those days was sobering. But, I thought it would be worthwhile and I served there for two years and I had really…we came up with some very creative programs to try to…I spent more time trying to keep people from going to the penitentiary than trying to send them there. Anybody could send them there, the idea if you could find something else to do with them to intervene in their lives to change their life patterns. The criminal justice system is a very effective way to do that if you can do that at the entering stage. Once they’ve been to the penitentiary they’ve been brutalized and they’re angry and it’s very unlikely that you’re going to be able to do very much rehabilitation, the best is on the front side. So we really had some good programs going and I thought they probably would not…somebody coming in, might not keep them alive and so I ran for reelection. I served two years, the end of his term, and then I ran for reelection and was elected for another two year term. So, out of another term, I stayed for two years of it and then in 1980…incidentally I think that was the best job I ever had. I think the district attorney is a marvelous job. An enlightened district attorney can be so effective in having a strong impact on people’s lives in this community and at the same time protecting those who need protection but trying to do things to…particularly with the younger persons who have stumbled into the system, finding some way to divert them and get them out of there. So, I really enjoyed that very much I got to try a lot of big murder cases, felt like that was what I wanted to do in life. The prosecution side is wonderful, you can do righteous indignation and you can really do a lot of things to be an effective prosecutor.

**KEK:** What kind…you talked about some programs that you started while you were there, describe some of those.

**AMC:** Well, one of them was called TASC, which was called Treatment Against Street Crime and it was kids that were on drugs. We would take them out of there and let them stay in the county jail for a week to understand what that was like, and then put them back on the street, make them come by once a week to give urinalysis so we could tell if they were back on drugs, make sure they had a job and it worked in a lot of cases. It didn’t work in all of them but probably 80 percent of them worked. I did what was called “shock parole.” A young person who had committed a crime who would otherwise…he would go to the penitentiary, instead of that we would get him sent to the county jail. Again, I would let him stay up there for eight to ten days, realize how bad it was going to be and then I’d go up there and I couldn’t do it often, but with somebody who I thought had some promise I could go up there and say to him, “Okay, I want you to understand, I’m going to let you go right now, today, you’re going to walk out of here. But I’ve got to tell you this, if you do something else and get in trouble in this county
again, what’s going to happen to you is you’re going to come back in here and you’re going to serve this next year and that’s Christmas, Fourth of July, New Year’s, you’re going to spend it all right here and then you’re going to do another year after that. You’re going to spend another Christmas and another Fourth of July up here in this county jail and you think about whether you want to do that or not, you think about that a lot and get out of here and don’t come back.” I did it enough that we could do without people finding out I was going to do it. Obviously, if they knew I was going to do it then it didn’t work. I think out of the twenty-some times that I was able to do it in 4 years that probably maybe only one ever really got in trouble again or two. So, it’s things like that and then doing community service. That was a new idea in those days nobody was sentencing people to community service so we started doing that and finding ways to do boot camp kind of things for them where they have some supervision. Then also with alcoholics, we worked a lot with the Johnson Institute up in Minneapolis. They use the federal criminal justice system as intervention in their lives. I mean the idea of putting a drunk driver in the penitentiary or in, after so many times it becomes a felony and you can send them to the penitentiary. Even putting them in the county jail for a year, all you’ve done is postpone their drinking for a year; you haven’t dealt with the underlying problems. So, we tried to find, and I worked a lot with the AA people, there were some really good people in AA that helped us. So we tried to divert persons who were addicted to, mostly alcohol in those days, meth and those things hadn’t come around so there were some cocaine problems and some things of that kind. Mostly that was in the higher economic brackets because street people couldn’t afford cocaine, they would do marijuana and they would do some heroin. So we had to deal with those things and where we thought it was possible and where the crime was not one of violence, we thought we could do some things with… Same thing with bad check people, they’ve got a guy in the penitentiary for life in California because he wrote three bad checks, I mean that’s crazy. I think we have to redo our whole drug system somewhere. We’re imprisoning more people in America than any country in the world and we’re doing it mostly because of…most of these people…their only real opportunity in the capitalist system is to sell drugs. I just think it’s foolish to put those kinds of people in the penitentiary because they are going to come out really bad.

KEK: What do you think about alternatives that are now currently in place like drug courts and that kind of thing?

AMC: Well, I think they’re great. I think that anything like that where you can really put…as long as they’re not abused like the sheriff out in western Oklahoma was abusing it, I think they’re really good. But, I’m very pleased that we’re doing that, I’m 100 percent for it. Anything like that that you can use where you supervise people and help them through a bad time there’s a chance that they might come out on the other side as productive citizens.

KEK: Well, I see that we are about halfway through our time so let’s go ahead and stop and take a break and then we’ll continue on.
AMC: Alright.

KEK: Hello, this is Karen Kalnins again. I’m a reference librarian at the Oklahoma City University Law Library and this is the second half of the interview with Dean Andrew Coates here at the University of Oklahoma. Again, we are in Norman, Oklahoma and it is still Thursday, January 22, 2009 and it’s a little bit past 10 o’clock in the morning. And, I wanted to ask Dean Coates, we had left off with his time as District Attorney in Oklahoma County and I wanted to ask him if…about his experiences with some of the judges in Oklahoma County and, well, not just the state judges but any kind of federal judges that he came into contact with. What can you say about them?

AMC: We were very fortunate in Oklahoma County to have a very strong bench and also I think the federal district court judges were really quite good. Judge Clarence Mills, Judge William Fog who was in El Reno. Oklahoma County was its own district but we did have Canadian County which was El Reno and Judge Fog sat in El Reno. Here of course you would think that a guy named Judge Fog might not, might be a little foggy but he was a fine, fine judge. But Judge Van Meter, Judge Wallace were all judges that…they didn’t have any law clerks, they handled a very huge docket. They handled it very well. In those days there were six district judges, there were two judges of the Court of Common Pleas which was an adjunct to that but at a somewhat lower level and then there were two county judges so they performed different functions but the Court of Common Pleas really handled most everything district judges did so there was I think a certain organizational concern. But, cases moved along well. If you have a case filed you could generally expect to go to trial within a year and get it disposed of. It was interesting, one of the great things that went on during those times was something we’ve lost over the years were the motion dockets on Fridays. In those days we were not just notice pleading, the pleadings really controlled the case. So there were motions filed attacking the writing of the petition. Initially a case was filed; initially there would be a motion to quash because the summons wasn’t served properly. Then there would be a motion to make definite certain or a motion to strike aspects of that and then there would be argued demurrer which means that if you agree with everything that they said there, why there’s still no cause of action and then an answer would be filed and there would be pleadings to the answer and then basically a reply would be filed. So, there was a lot of motion practice. The thing that was really good about that was that we had motion dockets on Friday in every court over there and it was like a festival for lawyers because we would all come there, we’d argue the cases, you could hear the good ones argue, the ones that really knew what they were doing. You could see the ones that weren’t as capable or weren’t as prepared so you began to know the other fellows of the bar. Then we would go have a cup of coffee afterwards at various places right around the courthouse so there got to be camaraderie among the fellows of the bar that has disappeared because now we’re never together in any group except a bar meeting or something and there’s not the time, even now, if you go up on a status conference, they’re thirty minutes apart so you don’t see
everybody in the courtroom. They were all held at 9:00 o’clock and you went to whatever court and the judge would say, “Well, where’s such and such, we’ve got to have him for this case. Well, I saw him up at Judge Manweger’s court, he said he would be down in a little while” and he would put him at the heel of the docket and we would go on with the next one. So it was a really wonderful time and I think it did so much to enhance the civility among opposing advocates which is something lost along the way. If you know the person on the other side and you understand that clients come and go but that relationships among the bar and with the bench are more important in the long run than some client’s case. I think that really helped maintain perspective, and kept lawyers with a professional distance that really served us all well and laboring in the fields of justice. The federal judges were remarkable, Judge Fred Dougherty was one of the finest, he was the commanding general of the 45th Division, he had been a trial judge in Oklahoma County, was appointed to the federal bench. He was a great trial lawyer and a great judge, a great legal mind. Judge Richard Bohannon who shepherded the city through all of the racial problems that came with the desegregation of schools. Judge Steven Chandler who was certainly a very odd one, there was an article about him that called him “the judge that drank Wild Turkey.” He was a very difficult judge, but at least you kind of knew what to expect and where he was coming from. So, it was a great time. Those years that I came in, as I said I first started in ’61 really, the two summers ’61 and ’62 and then started practicing law in ’63 were one of the great times both to be a lawyer and to practice law in the courts both federal and state of Oklahoma.

KEK: It certainly sounds like it, it certainly sounds like it. Tell me about some of your most significant cases during this time or even after.

AMC: Well, I guess one of the ones that comes to mind is the case of Roger Dale Stafford who murdered six people in the Stockade Restaurant, Sirloin Stockade Restaurant in south Oklahoma City. He herded them all into the freezer and shot all of them. He was later also discovered to have pulled a family, a Sergeant and his wife and a little boy, had stopped to help him on the highway. They had been parked aside with the hood up and he pulled over to help them and he killed the three of them. So he was prosecuted and we got a death penalty conviction on him. Then they tried him later, the district attorney of Cleveland County came and sat with us through our trial because she had not tried a death penalty case before. So then she tried him down in Purcell and through all the delays that are involved in the after…collateral attacks on death penalty cases, appeals and all that, he was actually executed under the Purcell death penalty instead of ours but it didn’t matter. But I think that that was probably, until the Oklahoma City bombing that was probably the biggest murder case in the history of Oklahoma in terms of the number of people involved and all of the publicity that surrounded it and the story of how he was found and how the prosecution was put together. We were able to get a conviction based on what had happened, there is a very remarkable book that I may write sometime. But, it was a remarkable time and it was a case that, as I say, was nationwide. I had a very early experience
not with a case but we had a…my predecessor had been a very active prosecutor of people involved in pornography. And I really had not wanted, I really wanted when I got in to spend our time on robbers and murderers and burglars and people that did violence and wasn’t as interested in that. But, we got the word that a Las Vegas group was going to start opening some theaters in Oklahoma County that were XXX-rated movies, they were going to bring in and start doing pornography. I talked with district attorneys in Dallas and Denver that both had that problem already there and they both said to me, “Don’t let them get started because if they get started, in those days it was based on contemporary community standards and they will set the standards. And these are people who are bad people, these are people who are former hit-men, they’re people who are part of the organized crime world and you don’t want those people in your community, you need to keep them out.” So, we did begin to battle that and the first night they showed it we went out and I told them to bring the film and the police brought the film and the popcorn machine and the manager and the projector and the whole thing down there and that day a very slick lawyer from Los Angeles flew in his private jet, came to see me. And he sits across from me and he says, “Andy, I want you to know we’re just business people, we just want to do business.” He said, “We’re the second generation people in this business, now the first generation people were bad, they killed people and they threw bombs and they hurt police officers and prosecutors.” And he stops and he says, “Most of them are gone.” I would of course been a lot more comfortable if he had said, “All of them are gone.” And I realized and it chilled me that he was saying, “Don’t give us too hard a time or we’ll come after you.” On a personal basis…..

KEK: So, so, what did you think when you heard this?

AMC: Well, first thing was I’ve got a family, I’ve got little kids and I worry about that and I say “No.” Then I get to thinking about it and I say, “No, I don’t believe we’re going to do that.” And so we did something that nobody had done I guess up to that point. The Las Vegas Cinema’s corporate headquarters was in Las Vegas and so we issued search warrants from Oklahoma County and Larry Joplin, who is now Judge Joplin, was one of my prosecutors and Dave McBride who was later Chief of Police and Head of the Highway Patrol went out there and got the Sheriff there to serve the warrants. They went into the offices of Las Vegas Cinema to find out who the people who owned it, who the backers were and seized it. There was one little guy in there and everything else, he let them have it. He had one little book in his hand that he was going to keep. Well, he didn’t keep it and we got it and brought it back. So then we issued arrest warrants for the people who were the officers of that company. Then they sent them back to Las Vegas and the sheriff of Las Vegas found a judge who was…he said the judges were on one side or the other and he had to find one that was on the right side and they went out to a big party and arrested four or five of those people. And about two days later the same guy in his private jet came back in, sat down in my office chair, and said, “Okay, we can’t do this, where do we go to surrender?” And I said, “The way we go to surrender is you guys, I don’t fool around
with you guys, I’ll drop the prosecutions, you pack up and leave town and don’t come back.” And they did. And so it was extra-judicial but it was certainly an interesting, difficult time. As to other cases……

**KEK:** And it sounds like you kept them out?

**AMC:** We did, we kept them out of Oklahoma. They didn’t come back. I think that was a good thing that happened. I think that our community would not have been enhanced by their presence in our town. We found, we did background searches on a number of the people and sure enough these were people who had been arrested for assault and armed robbery someplace and dismissed or arrested in connection with a murder and the case was dismissed. Some of them had served some time in the penitentiary and these were the guys who were the officers of that company. So, you know, you’re not dealing with your Sunday school teacher kind of folks. They were bad and they needed to be kept out of there.

On the civil side, I think I mentioned the snuff case which was a remarkable one and it turned out that the snuff did not cause the kind of tumor that this young man had in his mouth but again it was a nationwide… It was a fascinating case to me because when we tried it we had a big audience. I wondered who they were and why they were there. It turned out they were mostly stockbrokers because they knew that if the plaintiffs won the case, that the stock for United States Tobacco would have gone way down the tubes and they were wanting to be there so that they could get just an early warning so that the big funds, they represented the big funds of various kinds, 401(k) funds, those kind of things, and they were going to pull the trigger quick if it looked like things were not going to go well. We did notice that before…we tried it for two weeks, and we did notice that before closing arguments most of them had gone so they at least felt like we were going to get through that. But, it was a big time and a very interesting case and one that required lots of worldwide travel and spending time with expert witnesses. When I teach products liability here at the law school I take a day and just go through all the details of that case because it’s an ultimate kind of products liability case. We had social scientists come in and do counter groups here in Oklahoma County and then we went up to Wichita and tried the case on a mock trial basis for three days. We brought in 24 people who would be very much like the jurors we expected to find here. We broke them up into groups of 4, groups of 6 each. That’s what we were going to face, was a jury of 6, and in federal court in Oklahoma County. We tried the case, I represented the plaintiff, we had some real witnesses, some scripted-up witnesses, and we were able to tell a lot about what we would do and how it would play. But, as you might imagine, those are extraordinarily expensive kinds of defense efforts and it was really good.

I guess the case for which I am most known is the case of the University of Oklahoma and the University of Georgia against the National Collegiate Athletic Association over their control of college football television. Shortly after World War II people began to televise home games and
there was also at that time a drop in live attendance. Now, the reason that there was a drop in live attendance is because all the veterans had come back to go to school in ’46, ’47, ’48 but they were graduating and going on to college and they were home getting started so they didn’t come to the college football games, it had nothing to do with television. But the NCAA thought it did and they just appropriated the rights of all the colleges across the country to televise their own football games. They allowed one game on Saturday called the “Game of the Week,” and they negotiated with the national broadcasting companies to put the game on, sometimes it was ABC, sometimes it was CBS depending on, every five years they would redo the contract. But they would only let one game be on…they wouldn’t let any other games be on television. They provided sanctions for any school that didn’t comply.

**KEK:** Huh, so all the schools had to comply with this blanket order?

**AMC:** Absolutely, they had to comply. What had happened was a group of the larger football-playing schools called the College Football Association; it was all the schools really in the country and even the independents, like Army and Navy and Air Force and all that because everybody except the Big Ten and the Back Ten didn’t join, they stayed independent. But the rest of the country they negotiated a contract with NBC to run a game at a different time than the NCAA so it wouldn’t compete with it, but an evening time or a morning time or sometime later afternoon or whatever time the regular NCAA package was on. We were employed to…actually through one of the lawyers in one of the other large firms in town that I was asked to come and represent the University of Georgia and the University of Oklahoma. So, we brought the lawsuit here and we, but the NBC package, this College Football Association’s package had an opt-out provision that if by August the 1st, if there weren’t enough schools that would stay in it, they had a chance to be in or out and they had to choose by August the 1st. If they didn’t stay in then the package would not move forward. Well, the NCAA heard about it and they had a meeting of their executive committee and I don’t know if they promised sanctions against any team that stayed in it but they said that they wouldn’t necessarily sanction just the football programs so you were threatening North Carolina and Duke and the big basketball playing schools with sanctions against their basketball program if the football program stayed in the NBC contract. So we brought an action here first of all to stop the sanctions. And we tried it for three days here in front of Judge Eubanks and he entered an order but nobody was quite sure what it did. We thought we won but we couldn’t be sure and these schools were unwilling to take a chance so that went away. So, we were left with an antitrust action against…by two members of NCAA against the NCAA. The NCAA had never lost a case up till that time. And so it became quite a cause celeb.

**KEK:** And what was, what was the goal then of the lawsuit?

**AMC:** To allow each university to determine when and how they wanted to televise their programs. To take back the rights that had been appropriated from them so that you could deal
with your conference stats. We were in the Big Eight, the Big Eight conference would have a football package and the individual schools could go on Pay-Per-View or go on other times. None of that could be done so it was just to free up the market which had been totally controlled by the NCAA. So, we tried the case here in Oklahoma County to a, they assigned a judge in from New Mexico, tried the case here for a couple weeks. Then it was appealed to the United States Court of Appeals for the Tenth Circuit and we argued the case there and won two to one. Then it went to the Supreme Court of the United States and I argued it there and won seven to two. We learned that NCAA stood for Never Compromise Anything Anytime because there was no way they would agree. Even after we won the trial we tried to negotiate some kind of a settlement so that we could do something and they wouldn’t go for it. After we won at the Tenth Circuit we tried to settle it and couldn’t do it so finally had to go all the way and win. But it was one as you might imagine that was of nationwide interest because all the sports pages and all the people wanted to know if they could televise their games and when could they do it. Of course the television people were all very interested and the media people were all very interested so it was…there was something about it on the television or radio or something every day practically during the year or so that it took to argue it and then get the opinion. It was quite a remarkable case. It was very surprising that the guy from Oklahoma City would end up arguing the case to the Supreme Court of the United States on this subject. I mean this was a very unique experience and certainly one that has been a story and legend since that time. It’s gone on a long time.

KEK: Oh, definitely.

AMC: And it changed the whole world in terms of the major conferences, in terms of coaches’ salaries, in terms of the abilities of Pay-Per-View to pick up games of packages both at the national networks and the local networks and before that, there were a whole lot of schools that had never been on television. In the history of Kansas State they had never been on television, their football program, and Virginia had never been on television. I mean the rights’ fees were interesting, the year that Oklahoma was number one and Southern Cal was number two and we were playing Cal at the Rose Bowl, they showed it in 48 states. In two states they showed the Citadel playing Valparaiso or somebody and the pay to the colleges was the same.

KEK: Wow.

AMC: The payment of rights for the game was the same for those two schools as they were for Oklahoma and USC which is pretty interesting.

KEK: That is, that is.

AMC: I don’t know whether we’ve unleashed a monster, whether it’s a great thing or a bad thing, who knows. But at least it’s amusing for me to look back and realize that I released it.
KEK: Well, yeah and it changed, like you said, the whole landscape of this whole area. Now, did you do the arguments in front of the Supreme Court?

AMC: I did. And it was interesting because I was Mayor of Oklahoma City at the time and the Chief Justice, when you address the court you say, “Mr. Chief Justice and may it please the court.” But when he introduced me, Warren Burger, because they also call the Mayor “Your Honor,” he said, “You may speak Your Honor,” which I thought was really interesting.

KEK: That is.

AMC: And he had a big twinkle in his eye when he said that because they had never done that before. As far as I know that is unique.

KEK: How interesting. What was that like for you, I mean, not only were you the Mayor of Oklahoma City but you were going to argue before the Supreme Court on this case, what…..?

AMC: Well, it was really, really, interesting. And what I did among other things again, bearing on the preparation I spoke of earlier, I’d been through this case and lived with it for a year and a half or two years by that time and even so, I locked myself in a hotel room in Washington for two weeks before that argument. I had two of my partners who worked with me on the case who were truly extraordinarily able lawyers, they got together and spent time together and then they came and they moot-courted me for two or three days. They asked me every question anybody could think of about these cases. We read and went through every case that we thought might have any possible bearing on it. I mean mostly you’re dealing with Supreme Court cases but there had been a lot of antitrust cases over the years so you had to really understand that. But then cases in the courts of appeals around the country which might have some impact, so we did that. We really prepared well for it and so when it came time to do it, when you’re as well-prepared as we were, I wasn’t in as much fear…… We did employ Dean Herman Griswold. Dean Griswold had been Dean of the Harvard Law School and he had also been Solicitor General of the United States which is certainly one of the best jobs in the world, regularly appears in front of the Supreme Court and they wear a frocked coat, striped pants, and they represent the United States’ interests in any case in front of the Supreme Court. He had been Solicitor General and he worked with me in helping to prepare me. He read the briefs and helped prepare me for the argument and sat with us in the Supreme Court for the arguments. And I think again, one of the other great compliments I got in my life was that after the arguments, we were walking out of the courtroom, the old gentleman that was ahead of me and he walks about halfway out and stops like he had been thinking about it, and turns around and says, “You know, that wasn’t too bad.” He didn’t say it was good, but he said it wasn’t too bad. I don’t know what he expected but the arguments did go well and I think that that helped with the results.

KEK: Um, hm, absolutely. What kinds of questions did they ask you, the Supreme Court Justices?
AMC: The first question, two I lost were Justice White and Justice Rehnquist. Rehnquist asked, “Well, isn’t this non-profit organizations?” And I said, “Well, they pretended to be non-profit, but actually the NCAA has made a lot of money over the years but yes, basically they’re non-profit.” He said, “Antitrust law shouldn’t apply to nonprofits.” So, he was through, he never asked any more questions, he was gone. Justice White had received the year before the NCAA Athlete of the Century Award from them but he was really of the sort of leather helmet mentality, he didn’t think they ought to be on at all. He thought that college football was too big and too much like professional sports and was taking away from academics. Certainly there is a lot to be said for his view. But he wrote a dissenting opinion in which he kind of outlines all that stuff, that antitrust laws were intended to deal with commercial enterprises and this is a good example where they shouldn’t be commercial enterprises and they shouldn’t be…and on and on. So, those are the kinds of questions that were asked. Justice John Paul Stevens was the man who wrote the opinion and he asked me a couple of softball questions, “As to really doesn’t this fit as anticompetitive? And, doesn’t it……” The argument on the other side was pretty interesting. They said that, we said that it was a combination of a restraint of trade but that depends on the size of the market in which you consider the market to be. If you consider the market to be college football television why then they’ve actually got a monopoly. If it’s all television, which is what they said, “Look this is only a very small percentage of the market, the market is entire television so you can’t be involved in restricting trade in that one little area because it is only a small percentage of the market.” And so, those were the kinds of questions that they asked back and forth and argued about. The first question that I got, my friend, William Paul, had argued the case of Karen Silkwood in the Supreme Court of the United States and he said, “Andy, this is a…you always want to say something funny, in the Supreme Court you shouldn’t try to do any humor, that’s not the right place for any humor.” And, one of the first questions I got was Judge Blackmun said, Justice Blackmun said, “Well, isn’t this just that Oklahoma wants to be on television every weekend?” And I said, “Well, Your Honor we were only (we had a bad year) were only 5 and 5 last year, unless we do better than that, nobody is going to want us on television.” Fortunately, they all chuckled. Sure, of course we do, we would like to be on all the time, all the schools do, that’s exactly right. They like to be on whenever they can and we should be able to. But, that was my light attempt at humor. And fortunately it didn’t offend anybody so I think it was okay. But it was quite an interesting experience, a lot of interviews, both before and after with the national media. We went around the country taking depositions of people that were the heads of the various conferences. The Southeast Conference and that sort of thing, not that we wanted to particularly but the NCAA wanted them for some reason. And then there were a lot of famous people at the trial. Eddie Robinson who was the coach at Grambling University and Grambling University in those days had the most…they had an all-black team but they were extraordinarily, and wonderful, wonderful players came out of Grambling. He came here and testified for NCAA and he testified for about an hour about all kinds of things and my cross examination of him was, “Coach Robinson, we are pleased that you have come to Oklahoma. We hope that you don’t take away any of our fine athletes when you return to
Grambling and we’re delighted that you are here.” That was my cross examination because he hadn’t really said anything and there wasn’t any point in trying to beat him up.

KEK: So, you just decided that you weren’t going to put him on the hot seat?

AMC: Some of the best cross examination is when you don’t cross examine at all.

KEK: Exactly. Well, Dean Coats I see that our time is up and I don’t want to keep you any longer. We could certainly talk for hours about all of these various cases……

AMC: We could. I think I am becoming garrulous as I get a little older.

KEK: Well, no, but you have a lot and we haven’t even touched on your time as Mayor or anything.

AMC: No, there’s some other things that we could talk about sometime.

KEK: I’m sure, I’m sure. But I really, I appreciate your time today and your certainly, this interview will certainly become very important in this broader collection of oral history interviews. So, thank you very much.

AMC: Thank you.