

The bank should have policy on whether handguns permitted under the statute are allowed in the bank. If these are not permitted, the bank must post signage to that effect. Legally, the bank is free to refuse entry into the building to anyone with a firearm *except* federal, state or local law enforcement ("peace officers" under Sec. 1289.23 of Tit. 21) whether or not they are on or off-duty. The greeter at the bank needs to know who to contact in the event someone disregards the notice (security, an officer of the bank) who is designated to deal the person disregarding the notice.

Whether the bank permits handguns or not, if it becomes the target of a "Second Amendment Audit," it should have some protocol for dealing with the person or persons to get them out of the lobby and into a private office or conference room for the appropriate person to talk to. There should be more than one knowledgeable officer of the bank who knows and understands the bank's policy in that regard and can remain calm and composed in talking to these "auditors."

If the bank prohibits handguns, the person dealing with the auditors will state that the bank is complying with the Oklahoma statutes and has chosen to prohibit handguns inside the bank by bank policy. If asked to justify the bank's policy, certainly protecting customers and employees was part of the policy decision. Probably the strongest argument is that the majority of law enforcement overwhelmingly hates open carry because in an incident it is very hard to tell the good guys from the bad guys. This makes containment infinitely more difficult for them. While law enforcement officers are well-trained on how to protect their weapon from someone grabbing it, this is not the case with the average permit holder. I would add that as a customer, having someone come into the lobby with the gun and two clips on his belt as happened in the BOK incident would make me very nervous, but that is my personal point of view.

The other and larger problem with second amendment auditors is that they do not really seem to care what the state law is but rather jump to the U.S. Constitution and the Bill of Rights. Now you have two lay persons arguing Constitutional law for the entertainment on social media, which brings us to the "no recording in the bank" issue in the BOK video.

As far as recording conversations, although it is not illegal to record a conversation without obtaining consent as provided in 18 U.S.C. § 2511(d) which state: it "shall not be unlawful for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception[.]" So while the law places certain conditions on persons acting under color of law — that is, acting on behalf of the government — to record conversations, federal law allows private citizens to do so unless it is for the purpose of any criminal or tortious act. Showing up to ask questions is neither a criminal nor a tortious act. The Oklahoma statute mirrors the federal statute. The bank can have a policy of not allowing audio recordings which is applied to all.

Banks almost universally have prohibitions against filming video (or even taking photographs) inside the bank for security reasons. A bank wants to avoid paving the way for potential robbers, kidnapers, terrorists, etc. to plan to target the bank. Criminals can study photos and video to identify the location and angles of security cameras, determine how many employees there are, figure out vantage points from which they could control hostages, doorways through which to make their escape, etc.