

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA
IN THE DISTRICT COURT OF OKLAHOMA COUNTY, OKLAHOMA

NOV 23 2012

IN RE: THE THIRTEENTH OKLAHOMA)
MULTICOUNTY GRAND JURY.)
)

SCAD-2011-9 by PATRICIA PRESLEY, COURT CLERK
Deputy

Dist. Ct. No. CV-2011-81

FINAL REPORT

We, the undersigned members of the State of Oklahoma's Thirteenth Oklahoma Multicounty Grand Jury, having been duly empaneled on the 22nd day of February, 2011, upon the verified application of the Attorney General of the State of Oklahoma, and pursuant to the Order of the Supreme Court of the State of Oklahoma dated the 24th of January, 2011, and pursuant to provisions of the Constitution and Statutes of the State of Oklahoma, OKLA. CONST. Art. II, § 18 and 22 O.S. 2001 §§ 350 *et seq.*, have been charged with the responsibility of investigating in all seventy-seven (77) counties of the State, all manner and grade of crimes constituting public offenses under the laws of the State of Oklahoma, including, but not limited to, murder, rape, bribery, extortion, arson, perjury, fraud, embezzlement, violations of the Uniform Controlled Dangerous Substances Act, organized crime, public corruption, securities violations, and crimes involving the sale or purchase of goods or services by State and local subdivisions. We have regularly met and faithfully investigated allegations of such criminal conduct over these eighteen (18) months as provided by law.

The Thirteenth Oklahoma Multicounty Grand Jury, sitting in Oklahoma City, Oklahoma County, Oklahoma, at its principal meeting place, having met for Forty-seven (47) days over sixteen (16) sessions, and having issued One Thousand, Eight Hundred Ninety-five (1,895) subpoenas and having entertained Three Hundred Thirty-six (336) witness appearances, and having, in a fair and impartial manner, duly considered all such testimony and exhibits to the best of our ability and

understanding, with due regard to the Court's instructions, and having heretofore, after due deliberation, voted according to law, and having previously issued to the Court partial *Interim Reports* at the conclusion of each of its several sessions that are each, hereby, reaffirmed, do hereby submit to this Honorable Court this, its *Final Report*, as follows:

I. BACKGROUND

During this term, the Thirteenth Oklahoma Multicounty Grand Jury has extensively used its statutory powers to investigate various types of alleged criminal activity throughout the State. Ever mindful of the protection of individual rights under the Constitutions of the United States of America and the State of Oklahoma, it has become very apparent to us that the power to subpoena documents, records and other evidence, compel the attendance and testimony of witnesses under oath, and investigate allegations unrestrained by county boundaries are extremely effective weapons to combat the far-reaching crimes for which the Oklahoma Multicounty Grand Jury was created. The power to compel testimony has enabled the Oklahoma Multicounty Grand Jury to obtain the testimony of reluctant witnesses whose vital information would not likely have been obtained in any other circumstance apart from the Oklahoma Multicounty Grand Jury process. The authority to subpoena records of bank accounts, telephone subscriber information and toll logs, and other financial data and business records has been pivotal in discovering and documenting criminal activity throughout the State without prematurely alerting those under investigation and giving them the opportunity to dispose of evidence, change their method of operation or otherwise hinder lawful investigations.

The grand jury process is critical to a free citizenry in a representative republic such as ours. The Oklahoma Multicounty Grand Jury is composed of ordinary citizens from our State. The grand jury process ensures that no government agency, power, or person will unjustly or unfairly accuse

or incriminate another citizen or public official without due process. It is important that no person, either governing or governed, be subjected to unfair or unjust accusation without access to a court of competent jurisdiction in which to meet his or her accusers. The Oklahoma Multicounty Grand Jury does not decide guilt or innocence but rather, determines whether or not there is sufficient evidence which, if unexplained or uncontradicted and presented in court to a jury of one's peers, would prove the defendant's guilt beyond a reasonable doubt and result in a conviction. When there is sufficient evidence of both type and quality, the grand jury's responsibility is to bring an indictment, or accusation of crime, so that the State may require the indicted to face his accusers and stand trial. We have worked diligently and believe we have fulfilled our responsibility to the best of our ability in this regard. The necessity and effectiveness of the Oklahoma Multicounty Grand Jury have been demonstrated by the assistance this body has rendered to the numerous federal, state and local law enforcement agencies investigating crimes within this body's jurisdiction. Again, most law enforcement agencies, either by manpower, resources and/or authority, do not have all of the tools available to them that the Oklahoma Multicounty Grand Jury brings to the investigative table. The Oklahoma Multicounty Grand Jury has made a significant difference in many investigations.

II. INVESTIGATIONS

The Oklahoma Multicounty Grand Jury has employed its powers to investigate a variety of crimes involving all manner and grade of crime. These include: Murder in the First Degree; Assault and Battery; Racketeering; Embezzlement by Public Official; Unlawful Destruction of Public Records, common Embezzlement; Obtaining Money or Property by False Pretenses; Uttering Forged Instruments and other Forgery offenses; Bribery; Violation of the Computer Crimes Act; Violations

of the Anti-Commercial Gambling Act; Perjury; Conspiracy Against the State and other Conspiracy offenses; Downloading Obscene Videos; Workers' Compensation Fraud; Medicaid Fraud; Knowingly Concealing Embezzled or Stolen Property, and many others. In the investigation of the above-referenced crimes, the Thirteenth Oklahoma Multicounty Grand Jury has assisted one hundred thirteen (113) local and state law enforcement agencies and divisions as set forth in "*Appendix I*" marked and attached hereto.

III. GENERAL DESCRIPTION OF ACTIONS TAKEN

This Thirteenth Oklahoma Multicounty Grand Jury, during the course of its investigation, returned Twenty-five (25) indictments charging a total of Thirty-one (31) individuals. See "*Appendix II*," marked and attached hereto. While we were in session, we invested our time investigating various matters arising throughout the State of Oklahoma.

In a number of instances, this Thirteenth Oklahoma Multicounty Grand Jury directly assisted District Attorneys in their pursuit of criminal investigations within their jurisdictions. The Multicounty Grand Jury also worked closely with numerous Assistant District Attorneys from various Districts. Part of the assistance the Multicounty Grand Jury was able to provide was in the investigations of various alleged homicides and a number of "cold cases". There were numerous matters in which the assistance of the Grand Jury was sought and, accordingly, we were able to question numerous witnesses. By obtaining testimony, the respective District Attorneys and local law enforcement agencies were able to eliminate individuals as potential suspects, strengthen their investigations, make charging decisions and/or further pursue leads resulting from testimony.

As previously noted, the Thirteenth Oklahoma Multicounty Grand Jury assisted numerous local and state law enforcement agencies including the Oklahoma State Bureau of Investigation, the

Oklahoma State Bureau of Narcotics and Dangerous Drugs, the Oklahoma State Auditor and Inspector, the Medicaid Fraud Unit of the Office of Attorney General of Oklahoma, the Workers Compensation Fraud Unit of the Office of Attorney General of Oklahoma, the Consumer Protection Unit of the Office of Attorney General of Oklahoma, in conjointly investigating criminal offenses. *See, Appendix I* attached hereto for a complete list of agencies assisted.

IV. PARTICULAR AREAS OF INVESTIGATION

We do not find it necessary to use this report to address each and every investigation covered by the Thirteenth Oklahoma Multicounty Grand Jury. This report details areas which we believe are worthy of specific mention as follows:

A. HOMICIDES

Certainly one of the most serious subjects an investigative agency or investigative body such as this grand jury may devote its energies to is the subject of criminal Homicide. The grand jury devoted considerable time and effort to solving a number of cases involving the Murder of Oklahoma citizens. In this respect, we have been able to pursue leads that had been developed by professional law enforcement, but had been frustrated either by the refusal of witnesses to cooperate, or to fully cooperate, and have either solved the case, resulting in the perpetrator(s) being brought to Justice, or have developed new leads that are even now actively being pursued by law enforcement agencies.

1. **Brook Phillips, Baby Phillips, Milagros (Millie) Barrera, Baby Barrera, Jennifer Ermey, and Casey Barrientos**

The grand jury assisted the District Attorney for District 7 in conducting further investigation into these heinous, brutal, multiple, murders that were committed in Oklahoma County. We are

pleased that our efforts have led to another suspect in this case being brought to justice in the recent filing of the case of State of Oklahoma v. Denny Edward Phillips, Okla. County Case No. CF-12-5130, and concur with the District Attorney's decision to charge that person with multiple counts of First Degree Murder and Conspiracy to Commit a Felony.

2. Julie Mitchell

The grand jury received testimony from numerous witnesses regarding the murder of Julie Mitchell whose badly-beaten body was found in her northwest Oklahoma City home on November 2, 2010. Although this case remains at present unsolved, investigators continue to follow leads many of which have come from these grand jury witnesses and this grand jury is optimistic that this case will ultimately be solved. We regret the case could not be solved within the term of this grand jury. It is recommended that any future grand jury continue to investigate this very brutal crime.

3. Jacob Hedger

The grand jury took testimony from multiple witnesses regarding the death of 9 month old Jacob Hedger who died March 9, 2011 in Oklahoma County. In addition to the testimony from these witnesses, the grand jury also reviewed medical records from multiple physicians and medical personnel. This is a tragic and heartbreaking case and it is recommended that law enforcement and future grand juries continue to investigate the case.

B. DISTRICT 18 DRUG COURT

The grand jury investigated allegations of misappropriation of money, destruction of official records, knowingly concealing official records, perjury in testimony before this grand jury, assault and battery, and a conspiracy to obstruct the investigation of such allegations. The grand jury brought six (6) separate *Indictments* against four (4) individuals in the course of its investigations.

The cases involving these *Indictments* are proceeding through the court system in their respective venues of Pittsburg County and Oklahoma County. In the course of investigating these matters certain facts came to light before this grand jury that bear its report and comment.

Drug Courts are created pursuant to statute.¹ For Fiscal Year 2010,² District 18 Drug Court received a funding grant from the Oklahoma Department of Mental Health and Substance Abuse Services³ for Seventy-two Thousand, Two Hundred Fifty Dollars (\$72,250.00) for the Drug Court in Pittsburg County. When apportioned over the twelve (12) month period of the contract, the funding grant provided Six Thousand, Twenty Dollars and Eighty-three Cents (\$6,020.83) per month for the operation of the District 18 Drug Court Program in Pittsburg County. The funding grant was pursuant to a contract between ODMH and the District Court for Pittsburg County through its “Contractor” Drug Court Team, and provided among other conditions that the District 18 Drug Court Program, as Contractor, would “abide by all . . . state laws and regulations, the provisions of this contract . . . [and] all applicable Department standards and criteria.”⁴ District 18 Drug Court Program was also obligated under the terms of the contract to “follow the Recommended Drug Court Accounting Procedures as developed by the Office of Auditor and Inspector 2005 in regard to the

¹ See the *Oklahoma Drug Court Act*, 22 O.S. 2012, §§ 471 *et seq.*

² Fiscal Year 2010 was the period July 1, 2009 through June 30, 2010.

³ This State agency will be referred to herein as ODMH. The grant was awarded pursuant to a contract entitled “State Fiscal Year 2010 Between the Oklahoma Department of Mental Health and Substance Abuse Services and the District Court of Pittsburg County.” This contract will be referred to herein as “Contract.”

⁴ Contract, p. 1, part II, ¶ A.

performance of this contract.”⁵ The contract also encouraged the District 18 Drug Court Program “to develop additional funding streams” for “eligible services.”⁶ The statute authorizing Drug Court Programs authorized charging Drug Court Program Participants a maximum monthly “program user fee” of not more than Twenty Dollars (\$20.00) and the cost of testing.⁷ According to the Fiscal Year 2010 contract between the ODMH and District 18 Drug Court, the District 18 Drug Court Program expected to manage between eighty (80) and eighty-nine participants during the contract period.⁸ Collection of the statutorily authorized maximum monthly fee from the Drug Court Participants, assuming the lower number of expected participants, would generate an additional Nineteen Thousand, Two Hundred Dollars (19,200.00) for the 2010 Fiscal Year Period. Accordingly, the District 18 Drug Court Program should have had revenues available for expenditure during the 2010 Fiscal Year Period of Ninety-one Thousand, Four Hundred Fifty Dollars (\$91,450.00). During Fiscal Year 2010, the District 18 Drug Court Program had actual personnel costs payable from money deposited in Pittsburg County of Eighty-eight Thousand, Nine Hundred Thirty-five Dollars and Ninety Cents (\$88,935.90).⁹ This amount included one (1) salaried Drug Court Coordinator and between three (3) and four (4) hourly employees. Additional funds to administer the program were necessary in order to pay for the costs of drug test kits used in the program.

⁵ Contract, p. 5, part III, ¶ G (3).

⁶ Contract, p. 4, part III, ¶ C.

⁷ 22 O.S. 2012, § 471.6(H).

⁸ Contract, attached Statement of Work, p. 5, ¶ 5.2.

⁹ The program reportedly paid for a retired Pittsburg County Deputy Sheriff to serve as enforcement officer from funds available to it in McIntosh County.

Although a major contributor of operating revenue to District 18 Drug Court, and though it routinely monitored the program through its personnel, ODMH did not routinely monitor the collection or disbursement of fees collected from Drug Court participants other than to determine whether Drug Court participant files were being documented with payment receipts. The person monitoring District 18 Drug Court did not understand that use of informal receipts were not authorized. Indeed, there appeared to be confusion about whether the District 18 Drug Court was a County program, or a State program and who should be monitoring the program in regard to financial issues.

Certainly, as administered, the District 18 Drug Court did not “abide by all . . . state laws and regulations, the provisions of this contract . . . [and] all applicable Department standards and criteria” as required by its Contract.¹⁰ Under State law, the maximum amount of user fees authorized, and the place of payment, is set forth by statute:

H. The drug court judge shall order the offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed Twenty Dollars (\$20.00) per month, and necessary supervision fees, unless the offender is indigent. The drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the court's order for payment. User fees shall be set by the drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers. The court clerk shall collect all other costs and fees ordered. The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Department of Mental Health and Substance Abuse Services' Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503. 2 of Title 63

¹⁰ See footnote 4.

of the Oklahoma Statutes. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall any court order for costs and fees be limited by any term of probation, parole, supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the offender until fully paid. Offenders who have not fully paid all costs and fees pursuant to court order but who have otherwise successfully completed the drug court program shall not be counted as an active drug court participant for purposes of drug court contracts or program participant numbers.¹¹

State law simply does not authorize¹² the Drug Court staff to collect either “program user fees” or “other fees ordered” such as drug testing costs and supervision fees, since such fees may only lawfully be received by the County Court Clerk. This is not only the law, but is good public policy. The County Court Clerk is the usual collector of fees for Court proceedings, and is well organized for the collection and proper remittance of such fees. The Office of County Court Clerk, since it does not operate on Drug Court fees, would collect such fees without a sense of self-interest and could be expected to collect the entire fees as Ordered by the presiding judge of the Drug Court. Inexplicably, a manual prepared by a past administration of the Office of State Auditor and Inspector¹³ and adopted by the ODMH as proper accounting procedures,¹⁴ undertakes to provide a procedure for Drug Court staff to receive, deposit and account for program and other fees, though State statute clearly directs such payments to be collected by the County Court Clerks.

¹¹ 22 O.S. 2012, § 471.6(H). (emphasis added)

¹² During a period in 1997-1998, Drug Court programs were authorized to collect fees, but this authority was quickly removed by the Legislature and given to the County Court Clerks, compare Session Laws 1997, c. 359, § 7, *eff.* July 1, 1997, to Session Laws 1998, c. 53, § 1, *eff.* July 1, 1998.

¹³ Drug Court Accounting Procedures (2005)

¹⁴ Contract, p. 5, part III, ¶ G (3).

In the matter investigated by this grand jury, the then-presiding District 18 Drug Court¹⁵ had approved a “flat fee” of \$4,500.00 to be collected from Drug Court participants for participation in the program. We find no legal authority for charging Drug Court participants a “flat fee” encompassing program “user fees,” “supervision fees,” or “drug testing fees.” Such a “flat fee” appears to allow the charging of a program user fee in excess of the statutory maximum, and allows the charging of other fees beyond the actual cost of providing program supervision or program drug testing. This “flat fee” amounted to over ten (10) times the authorized maximum “user fee,” but was said to also sweep in all drug testing costs and supervision fees of the program. We found no place where the “flat fee” was broken out to reveal what amount was for the program “user fee”, how much was for supervision fees, or how much was for drug testing.¹⁶ Furthermore, under the procedures established by the Office of State Auditor and Inspector, all drug court monies are deposited into certain revolving funds, and are not subject to the restraints of fiscal year audit. Thus, no annual budget is compiled to determine what would be the projected annual component costs for the program. We found no evidence that the “flat fee” was ever moderated by the Drug Court to reflect indigent defendants’ ability to pay. Additionally, failure of the participant to pay the “flat fee” could result in the imposition of Court sanctions including being terminated from the program, which could then serve as grounds for sending the participant to the state penitentiary for ten (10) to twenty (20) years.

¹⁵ District 18 Drug Court operates throughout Judicial District 18, that is comprised of Pittsburg and McIntosh Counties.

¹⁶ The Drug Court Judge who approved the flat fee could not explain its components. Accordingly, it was impossible to determine whether the District 18 Drug Court was charging participants more than the maximum \$20.00 per month program user fee.

Under the procedures defined by the Oklahoma State Auditor and Inspector,¹⁷ all monies received should have been documented at the time of receipt by pre-printed, pre-numbered receipt according to a particular form set forth in the manual. As administered, only the Drug Court Coordinator would issue formal District 18 Drug Court receipts to reflect Drug Court participant's payments but other Drug Court staff could receive payments even when the Drug Court Coordinator was not physically present. These other staff persons would provide the participants informal "receipts," often in the form of handwritten, 3M style, "sticky" notes, other times written on duplicator copy paper, and then provide the collected payment with an identical informal "receipt" to the Drug Court Coordinator, who thereafter might¹⁸ issue the participant a formal program receipt. The Drug Court Coordinator might also issue a drug court participant informal receipts written on receipt books purchased from local merchants.¹⁹ Under State statute and pursuant to the procedure set forth in the State Auditor and Inspector's procedure manual,²⁰ monies collected had to be deposited the same day or by the next business day with the County Treasurer. District 18 Drug

¹⁷ See footnote 13.

¹⁸ Formal receipts were not always issued by the Drug Court Coordinator, nor were the monies that were turned over always deposited with the County Treasurer. See footnote 21, below. Nine (9) formal receipt books of fifty (50) receipts were known to have been purchased and delivered to the District 18 Drug Court, but disappeared and could not be located. Six (6) of those books were determined to have been used at least in part as evidenced by receipts obtained from Drug Court participants. Since it is not known how many of the missing books reflect receipts of money not deposited, an accurate determination of money missing was impossible.

¹⁹ Some of these receipts issued by the Drug Court Coordinator were not pre-numbered and resembled a "guest check" used at restaurants. Others were from receipt books commonly available from merchants. Neither conformed to the form established by the Office of Auditor and Inspector. Not all of the informal receipt books were recovered, thus adding to the uncertainty regarding the amount of money collected but not deposited, *See* footnote 18 above.

²⁰ See footnote 13.

Court did not make daily deposits of monies received, nor was all of the money that was received ever deposited. Annually at tax time, drug court participants were pressured by the Drug Court Coordinator of District 18 Drug Court to pay over their income tax refunds to meet this obligation in part or in full. “Deals” were negotiated by the Drug Court Coordinator for participants to pay thousands of dollars in cash in return for avoidance of threatened fee increases reported by the Drug Court Coordinator to be coming in the future. Many of these large cash payments were never properly documented by payment receipts, nor were the payments ever deposited by the staff person with the County Treasurer.²¹ All of this could have been avoided by those responsible for the administration of the program simply by following the law enacted by the Legislature and having the program user and other associated fees that were payable to the Drug Court Program collected by the County Court Clerk.

The grand jury reviewed numerous District 18 Drug Court payment claims that were processed for payment of staff salary and for the purchase of equipment and supplies that were “approved” by the “governing board” of the District 18 Drug Court. The forms noting the approval of this “board” reflect the following membership with a signature line for each member: Drug Court Judge or Designee, Drug Court Coordinator, Drug Court Defense Bar Member, Drug Court District Attorney. The form requires the signature of at least two (2) Board members. None of the claims that were processed and paid reflect any signatures other than the then-Drug Court Judge and the then-Drug Court Coordinator. We have not found any evidence that the approval of these claims by

²¹ The Drug Court Coordinator was *Indicted* by this grand jury for these actions upon multiple felony counts, and the case is pending in the District Court for Pittsburg County, Oklahoma.

the Drug Court Board were processed at any meetings of a Board held in compliance with the Open Meetings Law. All of the claims were thereafter approved for payment by the Board of County Commissioners for Pittsburg County.

While the *Oklahoma Drug Court Act* envisions that Drug Court programs operate according to a “team” approach, the Act also repeatedly states that the designated Drug Court judge or judges “administer” the program:

D. Drug court programs shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems. *Whenever possible, a drug court team shall be designated consisting of a judge to administer the program, a district attorney, a defense attorney, and other persons designated by the drug court team* who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions. The assignment of any person to the drug court team shall not preclude the assigned person from performing other duties required in the course of their office or employment. The chief judge of the judicial district, or if the district has more than one chief judge than the presiding judge of the Administrative Judicial District, *shall designate one or more judges to administer the drug court program.* The assignment of any judge to a drug court program or the designation of a drug court docket shall not mandate the assignment of all substance abuse related cases to the drug court docket or the program; however, nothing in this act shall be construed to preclude the assignment of all criminal cases relating to substance abuse or drug possession as provided by the rules established for the specific drug court program.²²

No statute appears to require approval of purchases by at least two (2) members of the Drug Court Team, nor does there appear to be any statute mandating a Drug Court “Board.” Each of the claims were encumbered on purchase orders approved by the then-Drug Court Judge as “Head of Department, Office, Sub-office, Institution or School.” The designated Drug Court Judge is plainly responsible for the administration of the program. Perhaps it would be a beneficial practice to require that program costs should be overseen by more than one public officer. We do not find any

²² 22 O.S. 2012, § 471.1(D). (emphasis added)

current legal authority for the form requiring two (2) members of a "Board" to approve the payment of the claim since nowhere in the law is the Drug Court "Team" established as a governing "board."

The grand jury does not believe that it is appropriate for a judicial officer to serve the executive function of administering the program vis-a-vis the financial requirements of the program. Such a function might better be exercised by an elected official such as the County Court Clerk or by a board consisting of the essential members of the Drug Court Team.

The grand jury also was shocked to find that the District 18 Drug Court employed both past and current Drug Court participants as staff persons who were allowed to not only assist in the administration of the Drug Court program but also to collect money from drug court participants. Use of such personnel was undertaken by the Drug Court Coordinator with the knowledge and approval of the then-presiding Judge of the Drug Court. Use of such personnel is not only problematic in terms of staff honesty and fidelity issues, but also has served as "cover" to the Drug Court Coordinator who has attempted to blame these personnel for missing money and public records.

We also note that programs such as the District Attorney's Bogus Check programs are subject to annual audits by the Office of Auditor and Inspector. Drug Court programs should be audited annually by the Office of Auditor and Inspector both in regard to finances but also in regard to performance issues.

The Thirteenth Oklahoma Multicounty Grand Jury makes the following recommendations:

1. That the practice of charging and collecting a "flat fee" for participation in Drug Court

programs be discontinued immediately until such a fee is authorized by the State Legislature.

2. That Drug Court programs immediately cease the direct collection of all program user fees, program supervision fees, and drug testing fees from program participants, but require such payments be made through the Office of County Court Clerk as provided by law.

3. That the Office of State Auditor and Inspector revise its Drug Court Accounting Procedures (2005) manual to conform to State statute regarding the proper place of payment of Drug Court participant user fees, drug test fees, and supervision fees.

4. That the Legislature assign the role of administering the financial functions of the Drug Court to some executive officer or public board.

5. That past or present Drug Court participants not be used as staff persons in Drug Court.

6. Drug Court programs should be audited annually by the Office of Auditor and Inspector both as to financial issues as well as program performance.

C. CITY OF BEGGS RURAL FIRE ASSOCIATION

The Thirteenth Oklahoma Multicounty Grand Jury heard testimony and received exhibits concerning allegations of financial misconduct within the Beggs Rural Fire Association. Specifically, the grand jury received evidence regarding allegations that: (1) an individual within the Beggs Rural Fire Association forged the signature of other authorized signatories on the Beggs Rural Fire Association checking account without said signatories' consent; (2) inventory was purchased by a member of the Beggs Rural Fire Association without approval of the governing board of said Association in contravention of the Association's bylaws; and (3) equipment owned by the Beggs

Rural Fire Association was used by an individual within the Beggs Rural Fire Association for personal purposes without permission of the governing board of said Association. The Grand Jury also heard evidence that certain vehicles and equipment owned by the City of Okmulgee were used by an employee of the City of Okmulgee for personal purposes outside the scope of his employment. Upon receiving all testimony and exhibits concerning the aforementioned allegations, the Grand Jury found insufficient evidence to support the issuance of an *Indictment*.

The grand jury does wish to address the internal record keeping a claims processing of the Beggs Rural Fire Association. Although partially supported by public funds and further supported by patron subscription, this entity does not appear to prepare even a rough budget for its operations. It does not engage in planning for the likely expenses for the upcoming year, but undertakes expenses as its goes. Expenses are often underwritten after they are incurred and without proper board approval or documentation. Accordingly, whenever the fire association acts, it does so on an *ad hoc* basis without planning.

Based on the testimony received, the grand jury recommends that the Beggs Rural Fire Association review its existing internal financial and auditing policies, and implement procedures consistent with Generally Accepted Accounting Procedures (GAAP). Specifically, the Grand Jury recommends the Beggs Rural Fire Association implement polices to improve and increase financial oversight, internal controls and invoice documentation within the organization. This includes, but is not limited to, creation of written policies providing for creation and approval of an annual budget, creation, submission and Board review of purchase orders for all items to be funded paid for by Beggs Rural Fire Association monies, and regular inventorying of equipment maintained in the Beggs Rural Fire Association custody.

Since part of the funding of the fire association is from public funds provided by the Oklahoma Department of Agriculture, we believe the use of such monies should be periodically audited by an independent auditor. We believe that the Oklahoma Department of Agriculture might, and should, make regular financial audits a condition for the fire association receiving the public monies.

The grand jury also wishes to address the written policies and procedures of the City of Okmulgee. The grand jury recommends the City of Okmulgee implement without delay, formal written policies regarding permitted uses of city equipment by employees of the City of Okmulgee, (particularly authorized uses of "take home" equipment) and the scope of said authorized use by said city employees. This includes, but is not limited to, use of vehicles or vessels owned by the City of Okmulgee by its employees.

C. UNCLAIMED PROPERTY FUND

The Office of State Treasurer is the current custodian of the Unclaimed Property Fund for the State of Oklahoma. It is not unusual for financial institutions, health care facilities, energy companies, and other businesses, public institutions, and individual people, to receive possession of private property belonging to other persons and then lose track of the true owners of the property. The Unclaimed Property Fund is made up of such private property when it is turned over to the Office of State Treasurer pursuant to law. If property that is turned over is not in the form of money but has actual value, it may be sold for its actual value and the funds held for the true owner. The Office of State Treasurer is given the duty under the law to make reasonable efforts to locate either the true owners of the property that has been turned over to it, or to locate the heirs of the true

owners. Accordingly, the monies received in the Unclaimed Property Fund are not State monies, but are held in trust for the true owners of the property, or the true owners' heirs.

Our investigation found that one of the very trusted staff personnel of the Office of State Treasurer, a person who had served for many years in State government, had devised a plan whereby she and her trusted friends and family members could falsify claims for money held in the unclaimed property fund and thereby obtain tens of thousands of dollars that actually belonged to other persons. This trusted, but corrupt, staff person, by virtue of her position as an internal auditor for the Office of State Treasurer, was intimately knowledgeable of the procedures for handling of claims against the Unclaimed Property Fund and the safeguards set up to prevent fraudulent claims against the fund. As a certified public accountant, the corrupt staff person was of high intelligence, knowledge, and skill, and clearly understood how she could go about defeating the safeguards.

The grand jury charged the corrupt staff person and the involved relatives and friends with multiple felony counts. These cases have now all been resolved with the corrupt staff person justly receiving a long prison sentence for her crimes. We anticipate that eventually all of the money that was stolen by these conspirators will be restored to the fund in the form of Court Ordered restitution.

We are concerned, however, that the corrupt staff member may have taken advantage of what was only a *pro forma* review of the fraudulent claims that had been submitted. The fraudulent scheme concocted by the corrupt staff member had claims being submitted by her relatives and friends who were claiming to be the sole heirs of the true owner of the property. The claims were all "documented" by forged death certificates and what purported to be Orders of the State District Courts declaring the claimants to be the sole heirs of the true owner's estate and property. The successful claims, all for amounts of money just under Ten Thousand Dollars, were required to be reviewed by not less than five (5) separate staff persons in the Unclaimed Property Fund unit. If each

claim was actually reviewed by five (5) separate staff persons, none of the staff chose to simply check the internet to determine whether or not the probate “Orders” actually reflected actual probate cases, but chose to simply check to see if the claim was “documented.” Had any one of them taken approximately two (2) minutes to check whether the submitted probate orders related to an actual probate case, they would have learned immediately that the “Orders” were bogus since none of the “Orders” related to actual court cases. While many of the actions by or on behalf of the corrupt staff member were committed during the term of a prior administration of the Office of State Treasurer, we believe an independent analysis of how these crimes took place would be appropriate.

The Thirteenth Oklahoma Multicounty Grand Jury makes the following recommendation:

That a performance audit be undertaken by the State Auditor and Inspector of the Unclaimed Property Fund Division of the Office of State Treasurer for the purpose of reviewing the adequacy of the safeguards and procedures presently in place to prevent fraudulent claiming of property held by the State in the Unclaimed Property Fund and the execution of such safeguards and procedures.

V. PLACE OF MEETING

This grand jury’s sessions originally were held in the Courtroom of our Presiding Judge at the Oklahoma County Courthouse until renovation of the usual space assigned to the grand jury was completed. This latter space, even after renovation, was small, cramped, and ill-suited for the confidential investigations of the grand jury due to the need to parade grand jury witnesses through open public hallways on their way to testify. Commencing in our May 2011 session, this grand jury

was authorized by our Presiding Judge to conduct its monthly sessions at the Attorney General Building that is located in the State Capitol Complex in Oklahoma City, Oklahoma. The change of meeting place from a small room located over a courtroom on the 7th Floor of the Oklahoma County Courthouse to the modern conference room facilities located in the Attorney General Building at the State Capitol Complex, has greatly improved the ability of the Thirteenth Oklahoma Multicounty Grand Jury to conduct its investigations in a fair, confidential, and secure manner while remaining under the direct supervision of, and ready communication with, our Presiding Judge. We earnestly thank our Presiding Judge for her wisdom and sound judgment in permitting the grand jury to conduct its monthly regular sessions at the Attorney General Building and recommend that future grand juries also be permitted to meet at that location.

VI. EXPRESSIONS OF APPRECIATION

The Thirteenth Oklahoma Multicounty Grand Jury wishes to express our appreciation to several individuals and agencies who have contributed to a successful term. In appreciation, we thank the Oklahoma Supreme Court for their Order convening the Grand Jury, and for their appointment of the Honorable Barbara G. Swinton, District Judge, Judicial District 7, as Presiding Judge of the Thirteenth Oklahoma Multicounty Grand Jury. Judge Swinton always made sure we were comfortable and secure and seemed willing to accommodate the grand jury and/or our legal advisors regarding grand jury business even when she was presented with inconvenient scheduling conflicts. On occasion, our legal advisors were required to present or defend legal challenges before Judge Swinton. Our legal advisors have always represented Judge Swinton as being reasonable and fair even when the request of the legal advisor on behalf of the grand jury was denied. We have found the Judge to be patient, courteous to everyone, careful, and wise in her decision making. Judge Swinton serves the People of the State of Oklahoma very well and with great honor.

We also commend the Honorable E. Scott Pruitt, Attorney General of Oklahoma and his staff. We appreciate his dedicated efforts to establish this grand jury, and provide us an opportunity to investigate the important matters that were placed before us. Particularly, we would like to commend the dedication, professionalism and support of our legal advisors Charles Rogers, Mykel Fry, Megan Tilly, George Burnett and legal intern Lauren Hammonds. We would also like to express our appreciation to Investigators Michael Wooldrige, Jackie Johnson, Fred Ellis and Jordan Lair for their investigative efforts, as well as their day to day assistance.

Additionally, we were especially impressed with, and would like to gratefully commend, the office of the Oklahoma County Public Defender, Bob Ravitz, and his staff for providing able legal counsel to indigent witnesses; to the Honorable Patricia Presley, Oklahoma County Court Clerk, and her staff; in particular her bailiffs Lisa Hinkle and Lamont Nguyen, and her deputy court clerk Patricia Sapp, for their hard work; and finally, to City Reporters, and particularly to Debra Garver, C.S.R., and Marla Cullison, C.S.R., who ably served as regular Official Court Reporters for the grand jury.

We, the Thirteenth Multicounty Grand Jury also want to honor the service of our remaining alternate juror, Beth Peters, who attended every day of every session, listened to every witness, examined every exhibit, received all of the legal advice, was prepared to step in and serve as a grand juror at any time, was always cheerful and friendly to her fellow jurors, but who never had an opportunity to participate in the formal actions of this grand jury. Her public service was stellar and we congratulate her.

Finally, we wish to thank our families for their support, patience, and understanding for the interruption caused in their lives by our service. We also express our appreciation to our employers

and co-workers for their support and understanding over the past eighteen months. Our families, employers, and co-workers deserve the appreciation of all of the People of the State of Oklahoma for supporting our service as grand jurors.

VII. CONCLUSION

Based upon our experience, we believe that the Oklahoma Multicounty Grand Jury serves an essential, necessary, and invaluable function for achieving the goal of the fair, impartial, apolitical, and adequate enforcement of the laws of the State of Oklahoma. Not only did we exercise multicounty investigative jurisdiction, we, the jurors of the Thirteenth Oklahoma Multicounty Grand Jury happen to be residents of twelve (12) different counties across this State. Prior members of this grand jury, as well as our remaining alternate grand juror, have represented the citizens of an additional three (3) counties in which they are residents. We have been a "Multicounty Grand Jury" in every sense of the word. We are pleased to have served as the Thirteenth Oklahoma Multicounty Grand Jury. We believe we have served to fulfill an important role in many criminal investigations wherein justice may not otherwise have been served. Information and evidence was obtained, investigations progressed, and many cases were solved that likely would have been otherwise but for the power of the subpoena and the authority of the Oklahoma Multicounty Grand Jury to question witnesses to crime. We believe this is a process and function which should be continued, funded, and fully supported by the Citizens, Governor, Judiciary, Legislature, and law enforcement community of the State.

William L. Tucker
FOREMAN

Bob Hawkins

Patricia Meeks

Doug Wilcox

Richard Kumbra

[Signature]

Rachel Callaway

Mary Russell

Susan Lough

Alexis M. Peoples

Shelley Shantz

Greg Zupps

This Final Report of the Thirteenth Oklahoma Multicounty Grand Jury is received and ordered filed this ____ day of August, 2012.

BARBARA SWINTON

**BARBARA G. SWINTON
PRESIDING JUDGE OF THE THIRTEENTH
MULTICOUNTY GRAND JURY**

APPENDIX I

1. Ada Police Department
2. Attorney General/IFU
3. Attorney General/MCGJ
4. Attorney General/MFCU
5. Attorney General/PPU
6. Attorney General/WCFU
7. Altus Police Department
8. Bartlesville Police Department
9. Beaver County Sheriff's Office
10. Beckham County Sheriff's Office
11. Bethany Police Department
12. Bixby Police Department
13. Broken Arrow Police Department
14. Broken Bow Police Department
15. Caddo County Sheriff's Office
16. Canadian County Sheriff's Office
17. Chickasaw Nation Lighthouse Police Department
18. Chickasha Police Department
19. Choctaw Police Department
20. Cleveland County Sheriff's Office
21. Cleveland Police Department
22. Collinsville Police Department
23. Creek County Sheriff's Office
24. Cushing Police Department
25. District 6 District Attorney's Office
26. District 9 District Attorney's Office
27. District 11 District Attorney's Office
28. District 20 District Attorney's Office
29. District 26 District Attorney's Office
30. District 27 District Attorney's Office
31. District III Drug and Violent Crimes Task Force
32. District 18 Drug and Violent Crimes Task Force
33. District II Drug Task Force
34. Duncan Police Department
35. Durant Police Department
36. Edmond Police Department
37. Elk City Police Department
38. Ellis County Sheriff's Office
39. El Reno Police Department
40. Frederick Police Department
41. Grove Police Department
42. Harper County Sheriff's Office
43. Harrah Police Department

44. Haskell County Sheriff's Office
45. Hugo Police Department
46. Idabel Police Department
47. Langston Police Department
48. Langston University Police Department
49. Logan County Sheriff's Office
50. McClain County Sheriff's Office
51. Midwest City Police Department
52. Mustang Police Department
53. Nicoma Park Police Department
54. Noble County Sheriff's Office
55. Norman Police Department
56. Office of Juvenile Affairs
57. Oklahoma City Police Department
58. Oklahoma County District Attorney's Office
59. Oklahoma Bureau of Narcotics
60. Oklahoma County District Attorney's Office
61. Oklahoma Department of Agriculture
62. Oklahoma Department of Corrections/McAlester
63. Oklahoma Department of Corrections/OKC
64. Oklahoma Department of Corrections/Tulsa
65. Oklahoma Department of Environmental Quality
66. Oklahoma Department of Human Services/OIG/Ada
67. Oklahoma Department of Human Services/OIG/McAlester
68. Oklahoma Department of Human Services/OIG/OKC
69. Oklahoma Highway Patrol
70. Oklahoma Insurance Department
71. Oklahoma State Board of Veterinary Medicine
72. Oklahoma State Bureau of Investigation/Alva
73. Oklahoma State Bureau of Investigation/Antlers
74. Oklahoma State Bureau of Investigation/Calera
75. Oklahoma State Bureau of Investigation/Durant
76. Oklahoma State Bureau of Investigation/Elk City
77. Oklahoma State Bureau of Investigation/Idabel
78. Oklahoma State Bureau of Investigation/Kingfisher
79. Oklahoma State Bureau of Investigation/McAlester
80. Oklahoma State Bureau of Investigation/Okemah
81. Oklahoma State Bureau of Investigation/OKC
82. Oklahoma State Bureau of Investigation/Stillwater
83. Oklahoma State Bureau of Investigation/Tulsa
84. Oklahoma State Bureau of Investigation/Weatherford
85. Oklahoma State Bureau of Investigation/Woodward
86. Oklahoma State Fire Marshal
87. OU Police Department
88. Owasso Police Department

89. Perkins Police Department
90. Perry Police Department
91. Pittsburg County Sheriff's Office
92. Ponca City Police Department
93. Pottawatomie County Sheriff's Office
94. Purcell Police Department
95. Roland Police Department
96. Skiatook Police Department
97. Stillwater Police Department
98. Texas and Southwestern Cattle Raisers' Association
99. The Village Police Department
100. Tulsa County Sheriff's Office
101. Tulsa Police Department
102. Tulsa Public Schools Campus Police Department
103. Tuttle Police Department
104. Union City Police Department
105. United States Secret Service
106. University of Oklahoma HSC Police Department
107. Verdigris Police Department
108. Wagoner Police Department
109. Washington County Sheriff's Office
110. Waynoka Police Department
111. Weatherford Police Department
112. Woods County Sheriff's Office
113. Woodward Police Department

APPENDIX II

**MONTHLY SESSIONS
THIRTEENTH OKLAHOMA MULTICOUNTY GRAND JURY**

MONTH	NUMBER OF WITNESSES	INDICTMENTS
March 28, 29, 2011	13	0
April 18, 19, 20, 2011	23	0
May 23, 24, 25, 2011	14	4 Indictments charging 5 persons
*July 18, 19, 20, 2011	28	1 Indictment charging 1 person
August 9, 10, 11, 2011	26	0
September 20, 21, 22, 2011	16	8 Indictments charging 9 persons**
October 25, 26, 27, 2011	29	0
November 15, 16, 17, 2011	18	0
*January 31, February 1, 2, 2012	21	2 Indictments charging 2 persons
February 21, 22, 23, 2012	20	0
March 27, 28, 29, 2012	24	2 Indictments charging 2 persons
April 24, 25, 26, 2012	15	0
May 15, 16, 17, 2012	30	0
June 12, 13, 14, 2012	27	1 Indictment charging 1 person
July 17, 18, 19, 2012	19	1 Indictment charging 6 persons
August 21, 22, 23, 2012	13	6 Indictments charging 6 persons

* The grand jury did not meet in June 2011, or December 2011.

** One of these Indictments re-charged a defendant who had already been Indicted.