

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

IN RE: MULTICOUNTY GRAND JURY) District Court
 SC-01-75) No. CJ-01-7434

FINAL REPORT

We, the undersigned members of the State of Oklahoma's Eighth Multicounty Grand Jury, having been duly empaneled on the 13th day of November, 2001, upon the verified application of the Attorney General of the State of Oklahoma and by order of the Supreme Court of the State of Oklahoma on the 9th day of October, 2001, and pursuant to provisions of the Constitution and Statutes of the State of Oklahoma, OKLA. CONST. Art. II, § 18 and 22 O.S.1991 §§ 350 *et seq.*, have been charged with the responsibility of investigating in all seventy-seven (77) counties of the State, alleged public offenses against the State of Oklahoma, to include 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 met and faithfully investigated allegations of criminal conduct within these enumerated areas over the last eighteen (18) months.

The Multicounty Grand Jury, sitting in Oklahoma City, Oklahoma County, Oklahoma, at its principal meeting place, having met for thirty-seven (37) days over fifteen (15) sessions, and having issued 2,120 subpoenas and having heard the sworn testimony of 198 witnesses, and having received 457 exhibits from said witnesses, 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, submits to this Honorable Court its Final Report as follows:

I. BACKGROUND

During this term, the 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 Multicounty Grand Jury was created. The power to compel testimony has enabled the 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 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 Multicounty Grand Jury is composed of ordinary citizens from our State. The grand jury process ensures that no government agency, power, or person should 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 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 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 the tools available to them that the Multicounty Grand Jury brings to the investigative table. It is this body's belief that the Multicounty Grand Jury has made a difference in many investigations.

During the term of our service, there has been a court ruling which has restricted the jurisdiction of the Multicounty Grand Jury. Our understanding of the court ruling from our legal advisors is that we as a body do not have jurisdiction to investigate a crime unless more than one county is affected by the criminal activity. Since that court ruling, we have had to decline assistance to numerous law enforcement agencies, district attorneys and citizens. One of this body's concerns is that in many instances, there is no mechanism within our State by which these entities can obtain certain evidence other than through the investigative powers of the Multicounty Grand Jury. Therefore, there are many crimes not being investigated and solved within Oklahoma. It is also our understanding that there is pending legislation before the Legislature to clarify what the Legislature intended when it passed the Multicounty Grand Jury Act. That legislation would restore the powers

of this body to investigate crimes in a single county. We encourage the Legislature to pass this legislation and the Governor to sign it into law so that this body can function as it was intended.

The Multicounty Grand Jury has employed its powers to investigate a variety of crimes. These include: Murder; Racketeering; Embezzlement by Public Officials; Embezzlement; Uttering of Forged Instruments; Perjury; Controlled Dangerous Substance violations; Conspiracy Against the State; Kidnapping; Rape; Fraud; Workers' Compensation Fraud; Medicaid Fraud; False, Fictitious or Fraudulent Claims Against the State; Violation of the Computer Crimes Act; Larceny; Consumer Protection Fraud; Theft; Larceny of an Automobile; Official Misconduct; Prostitution; Child Molestation; Environmental Crimes; Bribery; Making a False or Fraudulent Application to the Oklahoma Tax Commission; and Making a False and Fraudulent Claim to the State. The Multicounty Grand Jury has assisted the following agencies in the investigation of the above-referenced crimes: U.S. Marshal Service; U.S. Secret Service; Oklahoma Department of Environmental Quality; Oklahoma Department of Veteran's Affairs; Oklahoma Tax Commission; Oklahoma State University Police Department; Oklahoma State Bureau of Investigations (OSBI); State Fire Marshal; Texas and Southwestern Cattle Raisers Association; Oklahoma Bureau of Narcotics and Dangerous Drug Control; Oklahoma Department of Human Services/Office of the Inspector General; Oklahoma Department of Corrections; Oklahoma State Auditor and Inspector General; and the Office of the Attorney General (OAG). Local law enforcement agencies assisted by the Multicounty Grand Jury include Sheriff Offices from the following counties: Bryan, Carter, Cleveland, Coal, Custer, Grant, Kay, Kiowa, LeFlore, Mayes, McCurtain, Oklahoma, Osage, Payne, Stephens, Washington, and Woods; Multi-Jurisdictional Drug Task Forces including Districts 1, 3, and 18; and a total of forty-nine (49) municipal police departments. Similarly, the Multicounty

Grand Jury and its investigative powers were used by the following District Attorneys' offices: Carter, Cherokee, Cleveland, Craig, Grady, Hughes, Jefferson, Latimer, Muskogee, Oklahoma, Okmulgee, Payne, Tulsa and Woodward.

II. ACTIONS TAKEN

The Multicounty Grand Jury, during the course of its investigation, issued ten (10) indictments containing one hundred fifteen (115) separate counts with a total of seventeen (17) individuals indicted by this Grand Jury during the course of its investigation. The majority of our time has been spent investigating the Oklahoma Tax Commission (OTC). That part of our investigation deservedly attracted much public attention because of the widespread corruption at the OTC. Other areas of criminal activity were investigated and prosecuted or otherwise resolved. Some areas of investigation are not complete, and what we accomplished will serve only as the basis for further investigation by appropriate bodies or authorities in due time. A list of areas, which the Grand Jury believes should continue to be investigated because of possible criminal activity, has been separately prepared and provided to the Attorney General.

- A. We will address the issues surrounding our investigation of corruption at the OTC more specifically later in this report.
- B. The Multicounty Grand Jury assisted the Environmental Protection Unit of the OAG in the investigation of an environmental contractor doing business with the State. The result was a sixteen (16) count indictment for Presenting a False Claim Against the State against one individual. That individual has already pled guilty to the charges and received time in prison and was ordered to pay restitution back to the State totaling \$110,407.00.

C. The Multicounty Grand Jury assisted District Attorney Wes Lane, District Attorney James Thornley, District Attorney Tim Harris, and District Attorney Gene Christian in the investigations of various criminal allegations. The Multicounty Grand Jury also worked closely with Assistant District Attorneys Bret Burns, Sandra Elliott, Fern Smith, Richard Wintory, and Doug Drummond. Part of the assistance that the Multicounty Grand Jury was able to provide was in the investigations of numerous homicides. There were six (6) – one in Grady County, three (3) in Oklahoma County and two (2) in Tulsa County – in which we were able to question numerous witnesses before the Multicounty Grand Jury. By obtaining this testimony, the respective District Attorneys were able to eliminate several individuals as potential suspects and to further pursue leads resulting from their testimony.

**III. INVESTIGATION OF WRONGDOING BY EMPLOYEES
OF THE OTC, SERVICE AGENTS DOING BUSINESS
WITH THE OTC, AND MANAGEMENT PRACTICES
OF THE OTC REGARDING BOTH THEIR
EMPLOYEES AND THE SERVICE AGENTS**

This Grand Jury has focused the majority of its time and attention investigating allegations of wrongdoing at the OTC. In that regard, of the foregoing totals, the Grand Jury issued 838 subpoenas for the purpose of securing both witnesses and evidence. The Grand Jury has heard 79 witnesses and examined 314 exhibits, many of which were collective exhibits involving multiple documents. The Grand Jury returned nine (9) indictments as a result of this investigation, composed of sixteen (16) defendants – of which six (6) were OTC employees, one a tag agent, and the remainder were service agents doing business with the OTC – and ninety-nine (99) separate counts, including Bribery, Racketeering, Preventing a Witness from Giving Testimony, Conspiracy Against

the State, Perjury, Making a False or Fraudulent Application to the OTC, Obtaining Money by False Pretenses, and Making a False or Fraudulent Claim to the State. The substantial amount of time we devoted to this investigation is but a portion of the man hours expended. The OAG, through its attorneys and investigators, along with investigators from the OSBI, spent countless hours in preparation before, during and after each of our sessions to ensure that our time was spent efficiently during each session. When we requested additional information or witnesses on specific issues, the attorneys and investigators were always accommodating.

The sworn testimony of the witnesses and the information provided by the exhibits have allowed us to reach the following conclusions:

General Observations

Our examination of wrongdoing by OTC employees, service agents doing business with the OTC, and the management practices of the OTC, regarding both their employees and the service agents, required us to inquire into what, if any, policies, rules, regulations or statutes regulate the employees of the Motor Vehicle Division - Prorate Section at the OTC and the service agents doing business with the OTC.

Our examination of OTC employment practices and service agents has revealed serious deficiencies and at times blatant disregard for state statutes, regulations, and policies and procedures, in the following areas: the lack of regulation regarding the supervision of employees; the lack of regulation regarding disbursement of state funds to employees for travel; the accepted and often times ignored instances of criminal wrongdoing by its employees; the culture which developed and was allowed to thrive due to the lack of training and supervision that created an environment ripe for corruption by its employees and service agents doing business with the OTC.

Having said that, we have heard a great deal of testimony and have been provided with language from numerous state statutes, rules, regulations, and OTC policies and procedures. Below is but a portion of those:

OTC's policy regarding accounting for employee time is found in its *Personnel Policy* (Rev. 7/1/88). Relevant portions are as follows:

HOURS OF WORK. The standard work week for Commission employees will be a forty-hour week, [sic] office hours for the Agency will be from 7:30 a.m. to 4:30 p.m., Monday through Friday. Branch offices shall be open not less than from 7:30 a.m. to 4:30 p.m., Monday through Friday, with the provision that certain branch office activities may begin earlier than 7:30 a.m., and offices may be open beyond 4:30 p.m. where the activity better serves the public. Operations outside the standard 7:30 to 4:30 hours, Monday through Friday, should be staffed according to need. Any change in regular work hours requires approval of the Division Director and Commissioners in advance of such change.

Employees shall be scheduled to work forty (40) hours. In instances where one or more employees are scheduled to work other than 7:30 a.m. to 4:30 p.m., Monday through Friday, their work day and/or work week will be adjusted accordingly.

Personnel Policy, (Rev. 7/1/88), p. 2.

RESPONSIBILITY OF APPROVING OFFICER. Each Division Director or Deputy Director or supervisor of a reporting unit shall certify a Time and Attendance Report for employees of the Division or unit at the end of each reporting period, and is responsible for taking all necessary precautions that all leave applications are correct and complete.

The certification of the Time and Attendance Report by the Division Director or Deputy Director or supervisor of the reporting unit serves as authority to the Payroll Section to make salary payments.

By signing the Time and Attendance Report, the Division Director or Deputy Director certifies that the reports are correct and that all leave was approved in accordance with existing laws and regulations.

Personnel Policy, (Rev. 7/1/88), p. 3.

POSTING TIME AND LEAVE BY DAYS OF THE MONTH. Presence or absence must be indicated for each scheduled work day by entering the appropriate code or codes as specified. These codes or symbols are as follows:

8 -- For present and on duty	E -- For enforced leave
S -- For sick leave	C -- For court or jury leave
A -- For annual leave	M -- For military leave
W -- For absence without leave	

Posting of time and leave is a daily function. In posting less than a full day's absence, the number of hours should be shown beside the appropriate codes.

Posting examples:

For 8 hours present, the entry will be 8.
For 8 hours annual leave, the entry will be A.
For 8 hours sick leave, the entry will be S.
For 4 hours present in the morning and 4 hours sick leave in the afternoon, the entry will be 4P 4S.

Personnel Policy, (Rev. 7/1/88), p. 31.

Travel claims for auditors are governed by an eleven (11) page pamphlet entitled *Travel Reimbursement Guidelines for Auditors*, effective February 1, 1999. Relevant portions are as follows:

Per Diem

Reimbursement for meals and incidental expenses will be based on overnight travel status.

Standard Reimbursement

A standard reimbursement allowance, without receipts or documentation, is authorized for meals and incidental expenses at a rate not to exceed \$25.00 per day for travel in-state and \$26.00 per day for out-of-state travel. Exceptions to the standard reimbursement include:

1. Reduction for meal provided at a conference in the following amount:

In-state conference per meal	\$6.25
Out-of-state conference per meal	\$6.50

(Note on face of claim the number of meals provided.
Also state on claim if no meals were provided.)

2. Out of state audit (see page 8).

Per Diem in Lieu of Subsistence

An allowance for per diem in lieu of subsistence may be claimed. This allowance is intended to cover all charges for meals and lodging when ordinary meal and lodging expenses are not claimed, such as when an employee stays with relatives or friends in the destination city during official travel for the State. The standard rates are \$35.00 per day for in-state travel and \$36.00 per day for travel out-of-state. (Reasonable and necessary travel not eligible for per diem in lieu of subsistence.)

Travel Reimbursement Guidelines for Auditors, Effective February 1, 1999, p. 4.

Lodging

Reimbursement for overnight lodging, while in official travel status, may be claimed at a rate not to exceed \$40.00 including tax per night or the actual cost, if lower, per night within the State of Oklahoma and out-of-state. Lodging in designated high rate geographical areas will be reimbursed at a rate not to exceed \$65.00 including tax per night or the actual cost, if lower.

Designated Lodging

Employees attending meetings or conferences which are conducted at a designated lodging place can be reimbursed the actual lodging expense (plus tax) not to exceed the single occupancy rate charged by the designated lodging place. If claimed, documentation such as a conference agenda designating the lodging place must be attached to the claim for payment. If the agenda does not show the single room rate, claimant must state on hotel receipt that they are only claiming single room, or receipt must show only one in room.

Receipt Requirements

A receipt is required when lodging is claimed for reimbursement. The receipt must include the following:

Name and address of Lodging Facility
Date(s) that the Room Was Occupied
Indication of Single Room Rate
Indication of Zero (-0-) Balance, Showing Payment (Credit Card
Receipt is Acceptable)
Name of person in room (Must be claimant)

Travel Reimbursement Guidelines for Auditors, Effective February 1, 1999, p. 5

Itemized Miscellaneous Reimbursements

The following items may be claimed, if itemized, in the "Itemized Miscellaneous Cost" section of the travel claim:

Turnpike Fees (Attach receipt, if available)
Parking Fees (Attach receipt, if available)
Conference Registration Fees (Must attach paid receipt or copy of
front and back of processed personal check)
Money Order Purchases (Attach receipt, if available)
Business Telephone Calls (if itemized on hotel receipt)
Must Show Dates of Miscellaneous Cost if Not Shown on Receipt

Travel Reimbursement Guidelines for Auditors, Effective February 1, 1999, p. 6.

We were also provided with Section 257:20-1-1 of Title 74 of the Ethics and Conflicts of Interest Statutes, which provides as follows:

- a) The rules of this chapter have been adopted for the purpose of complying with the provisions of the Oklahoma Constitution, Article XXIX, Section 3 (B). The Ethics Commission finds that the proper operation of state government requires:
 - (1) that a state officer or state employee be independent and impartial;
 - (2) that government policy and decisions be made through the established processes of state government;
 - (3) that a state officer or state employee not use state office to obtain private benefits;
 - (4) that a state officer or state employee avoid action which creates the appearance of using state office to obtain a private or inappropriate benefit; and

- (5) that the public have confidence in the integrity of its government and state officers and state employees.
- (b) It is the intent of the Ethics Commission:
- (1) to protect against conflicts of interest and establish standards of conduct of elective officers and state employees in situations where conflicts may exist;
 - (2) to attract those citizens best qualified to serve. Thus the rules against conflicts of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. State officers should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when such interests conflict with the responsibility of such officers to the public;
 - (3) to discourage state officers and state employees from acting upon a private or business interest in the performance of a public duty;
 - (4) to develop public confidence in persons seeking or holding state office or employment, to enhance the dignity of state government, and to make it attractive to citizens who are motivated to public service;
 - (5) that state officers and state employees shall exercise their powers and prerogatives without prejudice or favoritism.

Title 74, c. 62, App. 257:20-1-1.

Finally, as we understand the Oklahoma Vehicle License and Registration Act (47 O.S.2001 §§ 350 *et seq.*), the Legislature authorized the OTC to enter into compacts/agreements with other states “concerning all motor vehicles engaged in foreign and interstate commerce upon and over the public highways” when in the best interest of Oklahoma residents. 47 O.S.2001 § 1123. Specifically, OTC is authorized to enter into the International Registration Plan (IRP) with other states to provide for uniform treatment from the imposition of fees and taxes of Oklahoma residents operating vehicles in other states and for residents of other states operating vehicles in Oklahoma. 47 O.S.2001 § 1120. Such taxes and fees may include motor vehicle registration and license taxes

as well as property, motor fuel, excise, sales, use or mileage tax. *Id.* OTC shall have authority to promulgate rules for implementing comparable regulatory fees and taxes for vehicles used in this state by residents of other states. *Id.*

For vehicles engaged in interstate commerce or combined interstate and intrastate commerce, the IRP permits motor vehicle registration and license taxes on any truck, bus, or truck-tractor on a proportional basis commensurate with the use of Oklahoma highways. 47 O.S.2001 § 1120. Proportional registration under IRP shall be based on the percentage of miles actually operated by such vehicles or fleets of vehicles in the State of Oklahoma in the preceding year in proportion to the total fleet miles operated both within and without Oklahoma. *Id.*

The OTC promulgated provisions under its rules at OAC 710:60-4-1 *et seq.* to facilitate the administration, enforcement and collection of taxes under IRP. The general requirements for proportional registration are set forth in OAC 710:60-4-3, which include having an established place of business located in Oklahoma, liability insurance pursuant to 47 O.S. § 7-602, proof of ownership, proof of payment of Federal Heavy Vehicle Use Tax, and complete the application and all required schedules. Those registering a vehicle for proportional registration must provide operational records to utilize a “registration agent” [a/k/a “service agent”] to prepare and/or file applications, supplemental applications and other documents required for proportional registration in Oklahoma. The registration application is signed under penalty of perjury. (*See also* 47 O.S.2001 §§ 1120.1, 1124, 1124.1.)

Our investigation has revealed that various officials, supervisors and employees of the OTC were lax or in direct violation of the public policy directive contained in the referenced personnel

policies and statutes. Without violating the secrecy provisions regarding grand juries, we believe it is imperative to report to this Court, in general terms, some of the conclusions we have reached as a result of the OTC investigation.

A. Supervision of OTC Employees

It is clear from the information we have obtained that the OTC failed to properly supervise certain employees within the Prorate Section of the Motor Vehicle Division. First of all, certain employees within this section were authorized by their supervisors to work from home. While in some instances this may be an appropriate practice, our investigation revealed a total or substantial lack of supervision and accountability of those employees who had this arrangement with their supervisors. There were specific employees who claimed to work from home who produced little or no work product which would suggest that they were not working full time for the OTC.

We also learned that some of these same employees were able to secure other employment and performed the duties of those jobs during normal OTC work hours. Further, other jobs performed by these employees were in direct violation of the ethical rule pertaining to conflict of interest. In those instances, this Grand Jury returned indictments against OTC employees for Conspiracy to Defraud the State. In addition, our investigation revealed a total disregard by the employees and supervisors to follow their own internal policies and procedures. None of these employees were required to fill out and submit daily, weekly or even monthly time sheets to their supervisors.

We believe such practices are indicative of poor management and judgment which promoted opportunities and incentives for employees to not perform their official OTC duties. This result is a direct violation of OTC's policy and the public policy stated in the Ethics Act.

Specific Recommendations

1. We recommend enactment and strict adherence to a policy requiring strict supervision and accountability for employees; particularly those employees allowed to work from locations or duty stations other than OTC offices.
2. We recommend OTC institute and follow supervisor accountability procedures by way of required periodic employee reviews and reporting.
3. We recommend that OTC strictly enforce its own internal policies regarding supervision of employees, including certification by employee supervisors of the actual hours worked each day by the employees. If OTC employees routinely work outside the presence of their supervisors, such employees should be required to certify, in writing, the hours they work to their supervisors.
4. We recommend that OTC adhere to and strictly enforce its internal policy regarding accountability of time and the Ethics Act.

We were informed and acknowledge that the OTC has begun to review all of their personnel policies and have improved communication between the OTC's Motor Vehicle Division, Commissioner's, Administrator and Legal Division. We commend the OTC for this action.

We were also informed that OTC has implemented a stricter timekeeping procedure for their auditors in the Prorate Section; however, when asked about the nature and extent of the new procedure, the reporting party was uncertain about the specifics of the new procedure.

B. Disbursement of State Funds for OTC Employees Travel

This Grand Jury returned indictments and filed informations against OTC employees for Filing False Claims with the State and/or Perjury. The evidence supported allegations that these employees represented through official documents that they were conducting official OTC business when they were not. Our investigation revealed that a large majority of the locations and businesses they claim to have traveled to were never visited. The investigation revealed that often, instead of being on official OTC business, they were performing the duties of other employment, vacationing or taking care of personal business.

Specific Recommendations

1. We recommend that OTC implement and comply with a mechanism to conduct routine audits and training designed to ensure accuracy with reimbursement of travel claims.

C. Service Agents

It is our understanding that the Legislature's intention in passing the Uniform Vehicle Registration Act was to entice trucking companies to establish their businesses in Oklahoma by lowering the fees to base plate their trucks. Our investigation revealed that most truckers and trucking companies that formerly were not registered in Oklahoma, but who now are registered in

Oklahoma, did not actually bring their businesses to Oklahoma. Instead, what evolved was an industry known as “service agents”. We believe it is important for us to report what we learned about the evolution and practice of these service agents.

We heard extensive testimony that some of the first service agents in Oklahoma were former OTC employees in the Prorate Section. We were told that these former OTC employees lobbied the Legislature to pass the Uniform Vehicle Registration Act. Disturbing to this Grand Jury is that service agents are not regulated by federal, state or local laws, nor are they subject to any licensing requirements in order to do business within the State of Oklahoma. Instead of the trucker moving his or her business to Oklahoma, the new legislation allowed the trucking company to contract with the service agent for a fee to prepare, submit and often times pay the registration fees to OTC on behalf of the trucker. The trucking company or trucking operator receives the benefit of lower Oklahoma tax rates for motor vehicle registration by providing the “service agent” a power of attorney authorizing the service agent to sign office leases and otherwise act on the trucker’s behalf. The service agent then creates a “lease” of office space by “leasing” an undescribed portion of office space owned or controlled by the service agent to the service agent’s clients; often having one employee of the service agent sign on behalf of the trucker client as “lessee” and another employee of the service agent sign for the service agent as “lessor”. Through this legal fiction, “domicile” of the trucker’s business in Oklahoma is established to the satisfaction of the OTC and out-of-state trucking businesses are permitted to register in Oklahoma without any further actual presence within the State. We learned that the majority of the time, the trucker would provide the necessary documentation including actual miles traveled to the service agent. These agents were allowed to act as third party agents for truckers, and they would then fill out the application, mileage charts and

supporting documentation for those truckers wanting to base plate in Oklahoma. However, our investigation revealed that many times, the applications, insurance verifications, and mileage charts submitted by the service agents to OTC were false. We even heard testimony that some of these documents were falsified by cutting and pasting and using white out. While we acknowledge that the OTC is not responsible for the dishonest acts by service agents, it is responsible for the acts of OTC employees.

We heard testimony that in the beginning, service agents were able to curry favor with certain employees within the Prorate Section by giving them alcohol, gift certificates and even vacations. These endeavors on the part of the service agents began to escalate as this industry grew and several service agents then began to bribe these employees. The service agents would pass the cost of the bribery onto the trucker that he or she was doing business with. The indictments which we returned speak for themselves, but what we were not able to put in an indictment was the corrupt culture that was created and existed in the Prorate Section. Many employees testified that they attempted to report these false documents to their supervisors but were repeatedly told, “we are not Dick Tracy, we are not the police,” and to accept the applications as presented. Our investigation revealed that employees were allowed to share their passwords with other employees and that this practice was condoned by their supervisors. The information we received indicated there were absolutely no measures in place to protect the availability of information, nor information from being added and deleted by anyone in the Prorate Section. Other employees did not report these things to their supervisors; instead, they engaged in criminal wrongdoing and benefitted financially by accepting the proffered bribes, and often times altered the corrupting service agent’s forms or would even input

false computer data into OTC computers, so that the total registration fees collected by the State would be lower which would then create positive cash flow benefitting the corrupted State employee and corrupting service agent. Some employees would actually steal cab cards that allowed the trucker to operate his or her trucks; never collecting any fee on behalf of the State from the trucker of the service agent. Many times the service agent would report large amounts of miles in states that charged low fees to base plate and low miles in states which charged high fees to base plate. This became an accepted practice which defrauded this state and possibly other states, and will be to the detriment of Oklahoma's taxpayers. While we understand that a state employee should not engage in this type of wrongdoing, we heard too many times that this was an accepted practice by certain employees and supervisors within the Prorate Section.

We also heard testimony that from the highest level of the OTC, they were aware, as early as 1997, that some of these problems described above were occurring in the Prorate Section. This was evidenced by reports provided to us from OTC's internal investigations and the State Auditor and Inspector of Oklahoma.

We learned that the OTC Commissioners made some efforts to strengthen some of the OTC's rules pertaining to the Vehicle Registration Act during the 1997 legislative session. We understand that these rules must ultimately be enacted by the Legislature. Our investigation revealed instances where certain Legislators requested the OTC Commissioners to abandon these efforts. Further, our investigation revealed that the Legislature did not take any action regarding the strengthening of these OTC rules until October of 2002.

Specific Recommendations

1. The Oklahoma Legislature enact legislation that regulates “registration agents,” a/k/a service agents doing business with the State of Oklahoma.
2. The OTC implement and enforce strict policies regarding the acceptance of vehicle registration applications and supporting documentation.
3. The OTC implement and provide training to those employees responsible for accepting and processing vehicle registration applications and documentation.
4. The OTC create an atmosphere that encourages employees to report wrongdoing to their supervisors and holds those responsible for their wrongdoing.
5. The OTC Commissioners recommend and the Oklahoma Legislature raise the excise tax on tractor trailer rigs to a more equitable percentage based on what the excise tax is on private motor vehicles.
6. The OTC review the computer system currently in place that services the Prorate Section and that any and all changes, upgrades and maintenance be performed that will increase the security of the computer system in the Prorate Section.
7. The OTC Internal Investigator position be refilled, in spite of OPM limitations, answering directly to the OTC Commissioners and OAG.

We acknowledge and commend the OTC Commissioners for establishing a standardized mileage chart, for strengthening the rule regarding established place of business, for passing a rule that requires all owner operators to be located in Oklahoma and for passing a rule requiring owner

operators and motor carriers to provide actual contact information. We encourage the OTC to strictly adhere to these rules when conducting business with service agents and trucking companies.

We further acknowledge and commend the OTC for increasing the scrutiny of the applications and supporting documentation that are presented by service agents and trucking companies and for adding ten (10) auditors to the Prorate Section. We were also informed that the OTC hired and contracted with the State Auditor and Inspector to have an auditor review the application process in the Prorate Section. We commend the OTC for their initiative in this area. We understand that the auditor does have additional recommendations for the OTC regarding the security and processing of the applications and we strongly encourage the OTC to implement and adhere to all of the auditor's recommendations.

It has been reported to us that the OTC has disbarred four (4) service agents, that four (4) disbarment hearings against service agents are pending and that three (3) additional disbarment hearings against service agents are scheduled. Our understanding is that these proceedings are as a result of our investigation and the indictments that we returned. We encourage the OTC to continue this avenue of disbarring those service agents that should not be doing business with the OTC. We further encourage the OTC to pursue any and all avenues of discipline with regard to those service agents that have violated OTC policy and the Oklahoma Statutes.

Conclusion

It is apparent from the information provided to us throughout this investigation that from the highest level of the agency, the OTC failed to follow clearly stated public policies found in its personnel manual and in the Oklahoma Statutes; specifically, with respect to employment practices

and the oversight of service agents doing business with the OTC, the numerous indictments returned by this grand jury are indicative of those failures. This investigation has led us to conclude that there were serious deficiencies in the manner in which the OTC was run in past years. We as grand jurors and citizen's of this state believe that the people of Oklahoma deserve to have their state government and state agencies conduct their business in an equitable and efficient manner. In an effort to assist in correcting the deficiencies and restoring the OTC to a position of trust and respect, this Grand Jury makes the following additional recommendations:

1. We recommend that the OTC Commissioners review the job performance of the employees responsible for the failures and deficiencies outlined above and make any and all necessary changes to their status and/or duties at the OTC.
2. We recommend that the OTC Commissioners appoint a committee of knowledgeable employees from positions throughout the agency to review, revise and update, with approval, the current policies and procedures of the OTC to ensure their conformity with state law. The selection of these employees should exclude those employees who were involved in the failures and deficiencies at the OTC.
3. We recommend that the OTC Commissioners appoint a committee of knowledgeable employees from positions throughout the agency to review, revise and update, with approval, the current policies and procedures of the Prorate Section within the Motor Vehicle Division of the OTC to ensure their conformity with state law and the International Registration Plan's rules and regulations. The selection of these employees should exclude those employees who were involved in the failures and deficiencies at the OTC.

4. That once completed, all OTC employees, supervisors and officials should be required to follow said policies and procedures, and failure to do so results in dismissal.
5. We recommend that the Governor and Legislature of this State fully support, either through the enactment of legislation, funding or other necessary means, the restoration of the OTC to an equitable and efficient agency.

We acknowledge that as a result of our investigation there have been several OTC employees who have been terminated and others that have resigned. Those who were terminated were as a result of the indictments we returned. However, some of the employees that were indicted were allowed to resign, we strongly encourage the OTC to appropriately discipline all of those employees that have either violated OTC policy or the Oklahoma Statutes.

IV. EXPRESSIONS OF APPRECIATION

The 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 Supreme Court of the State of Oklahoma for their Order convening the Grand Jury and for their appointment of retired Supreme Court Justice Robert D. Simms as Presiding Judge of the Multicounty Grand Jury. We express appreciation to Judge Simms for his patience and wise guidance throughout the term. We commend Attorney General Drew Edmondson and the members of his staff for their professionalism, support, legal advice and assistance. We wish to express our appreciation specifically to Lisa Goodspeed and the other members of the OAG's Multicounty Grand Jury Unit

for their efficient and professional use of our time. We would also like to thank Cyndi White and Freddy Leggett, Court Reporters. Also, to Oklahoma County Commissioners Jack Cornett, Jim Roth, Stan Inman, and retired Commissioner Stuart Ernest, Jr., and their staffs, for their indulgence in having this body convene in their conference rooms; to the office of the Oklahoma County District Attorney Wes Lane and his staff for the use of his offices and to the office of the Oklahoma County Public Defender Bob Ravitz and his staff for the use of his offices; to the Office of the Court Administrator, Howard Conyers, and his staff; to Oklahoma County Public Defender Bob Ravitz and his staff, for providing counsel to indigent witnesses; to Charlotte Andrews and Myron Towers who served as bailiffs; to Oklahoma County Court Clerk Patricia Presley and her staff, and Deputies Teresa Davis, Susan Keltch, Shelley Richards, and Damon Cantrell; and to Melvin Sampson for his assistance. To all of you, our grateful thanks for a job well done.

We also wish to thank our families for their support, patience, and understanding. We also express our appreciation to our employers for their support and understanding over the past eighteen (18) months.

V. ADMINISTRATIVE RECOMMENDATIONS

During our eighteen (18) month tenure, this Grand Jury has met in two (2) different locations for various reasons beyond our control. While the accommodations have been reasonable, we believe it to be in the best interest of future Multicounty Grand Juries to have a single, permanent meeting place. Further, we recommend that adequate parking availability be considered in selecting a location.

VI. CONCLUSION

We are unanimous in stating that we believe, based upon our experience, that the Multicounty Grand Jury is an essential and invaluable tool for law enforcement in the State of Oklahoma. Information and evidence were obtained, and cases solved, that would likely not have been otherwise due to the use of the subpoena and investigatory powers of the Multicounty Grand Jury. We believe it is a process which should be continued, funded and fully supported by the citizens, Legislature, Governor, judiciary and law enforcement community of the State.

FOREMAN

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This Final Report of the Oklahoma Multicounty Grand Jury is received and ordered filed this
____ day of May, 2003.

**ROBERT D. SIMMS
PRESIDING JUDGE OF THE EIGHTH
MULTICOUNTY GRAND JURY**