



# DISTRICT ATTORNEY DISTRICT 23

Forensic Audit

August 27, 2024

**Cindy Byrd, CPA**  
State Auditor & Inspector



August 27, 2024

Honorable Vicki Behenna  
District Attorney, District 7  
320 Robert S Kerr Ave, Suite 505  
Oklahoma City, OK 73102

Re: Forensic Audit of Financial Accounts of former District Attorney Allan Grubb, District 23

District Attorney Behenna:

On February 28, 2022, the State Auditor & Inspector's Office (SA&I) received a request<sup>1</sup> to perform a forensic audit of the financial accounts of former District Attorney Allan Grubb, District 23 (the District). The allegations presented to our office were:

- District Attorney Grubb had failed to remit appropriate funds from the District to the Oklahoma District Attorney's Council (DAC). Although an agreement<sup>2</sup> had been put in place on September 7, 2021, to repay the owed funds, the balance had not been satisfied as of the date of the request.
- District Attorney Grubb allegedly utilized \$275,791 from the District's Drug Asset Forfeiture account to repay the owed funds; a fund normally restricted in use.

The audit was requested to determine if funds remitted to the DAC were properly accounted for and used for authorized purposes.

The results of our audit are addressed below.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Byrd".

CINDY BYRD, CPA  
State Auditor & Inspector

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<sup>1</sup> See Attachment 1

<sup>2</sup> See Attachment 2

**Forensic Audit Report Summary  
District Attorney Allan Grubb, District 23**

**Objective 1 Determine if the District remitted the required funds to the DAC and if all funds submitted were properly accounted for.**

For the period of January 2019 through March 31, 2022, all funds submitted by the District to DAC were confirmed as received, deposited, and credited by DAC for the benefit of the District. No irregularities were noted in the recording of these payments.

The District did not remit sufficient funds to cover their financial obligations. Per DAC records, the District had a deficit balance of \$679,198.21 as of September 2021. Although an agreement was put in place on September 7, 2021, to repay the owed funds, the balance had not been satisfied as of March 31, 2022, when the outstanding balance, per DAC, was \$272,686.18.

After DA Grubb took office in January 2019, the budgetary deficit appeared to increase due to the District's continued hiring of new employees. As per the schedule, the District's employee count averaged 8 - 12 additional employees in FY 2020 and FY 2021 compared to the prior administration, thereby increasing payroll cost.

Time Period	Payroll Amount	Average No. of Employees
Jul 2018 – Dec 2018	\$864,438.20	26.70
Jan 2019 – Jun 2019	\$950,271.59	34.00
Jul 2019 – Jun 2020	\$2,155,019.40	38.08
Jul 2020 – Jun 2021	\$2,274,440.81	34.58
Jul 2021 – Mar 2022	\$1,397,530.20	27.67

Numerous inquiries were made by the DAC Executive Coordinator to the District requesting payment to satisfy the District's deficit, but the requests were ignored. During an interview, the District's Finance Coordinator stated that DA Grubb was provided several recommendations to correct his budgetary issues, such as, reducing the number of employees receiving high wages or reducing wages. However, the suggestions were ignored.

**Objective 2 Determine if \$275,791 of Drug Asset Forfeiture funds, normally restricted in use, were applied to the District's deficit improperly.**

Drug Asset Forfeiture funds are restricted in use as defined in 63 O.S. § 2-506 (L)(3) which requires funds to be used solely for the enforcement of controlled dangerous substance laws, drug abuse prevention, and drug abuse education.

As previously noted, the DAC and former District Attorney Allan Grubb signed an agreement<sup>3</sup> on September 7, 2021, "To Correct The Financial Condition of District 23." This agreement included a statement that Grubb would promise "to pay Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) from his Drug Asset Forfeiture fund as soon as a voucher can be approved and submitted." The DAC had agreed that the Drug Asset Forfeiture fund would be utilized for previously incurred payroll costs.

<sup>3</sup> See Attachment 2

The District transmitted \$275,791 on September 21, 2021, from the District's Drug Asset Forfeiture fund to DAC. The transmittal was accompanied by 60-pages of supporting documentation detailing the basis for utilizing the Drug Asset Forfeiture funds for previously incurred payroll costs. This information was a list of felony and misdemeanor drug cases filed in the District during 2019 and 2020, the employees who worked on the cases, and the percentage of those cases that were drug related (32%). A sample of 20 of these cases were reviewed and verified as drug related cases.

The \$275,791 was accepted by the DAC and applied to the District's deficit payroll costs that had been previously paid from other sources.<sup>4</sup> Although the cases documented were for drug related cases, there were no itemized timesheets maintained to determine how much time was spent on each case. Without documentation of the actual time worked, it could not be determined if the total of the funds submitted were properly expended for statutorily restricted purposes.

## **Other Issues**

### **Deferred Prosecution Agreements**

Allegations had been presented about the improper handling of deferred prosecution agreements (DPA's) in the District including improperly prioritizing their use to generate revenue. A compilation of known DPA's was prepared and evaluated. During FY 2019 – FY 2022, there were 58 DPA's documented in Pottawatomie County and 194 DPA's documented in Lincoln County.

The District was acting in a supervisory role over DPA agreements by collecting and depositing supervision fees. The DPA funds had a balance of \$178,654.48 as of January 2019 when DA Grubb took office. The DPA's generated total revenue of \$163,580.04 between January 2019 and March 31, 2022, resulting in available DPA funds of \$342,234.52. Of the \$342,234.52 available in the District's DPA accounts, \$271,964.30 was submitted to DAC for payroll.

Title 22 O.S. § 305.1 – 305.7 defines the Deferred Prosecution Program. No statutory restrictions on the use of DPA funds was noted in the review of statute. It was noted in § 305.1 that "*Each district attorney shall adopt and promulgate guidelines which shall indicate what factors shall be considered in including an accused in the deferred prosecution program.*" Statute further defines what the guidelines should include specifically to determine if a defendant should be considered for participation in the program.

***Finding      The District did not adopt official DPA guidelines regarding what factors to consider when deciding whether to offer deferred prosecution agreements and the appropriateness of related assessed fees.***

It was also alleged that there were possibly undocumented DPA's that had been established for the personal benefit of DA Grubb. Through interviews with District

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<sup>4</sup> State Appropriations, Jail Costs, County, etc.

employees, other officials, and concerned citizens, we were unable to determine if there were any undocumented DPA agreements.

### **Child Support Contract**

In April 2022, the contract between DHS Child Support Services and the District's Child Support Office was terminated, effective June 30, 2022, due to the "low volume of work combined with financial and legal errors" resulting in an unacceptable level of service to families.

In May 2022, SA&I was notified that the District appeared to have overspent their DHS Child Support contract and that part of those questioned costs included the salary of an employee that was claimed as an expense but had not performed any child support services work. Through review of monthly payroll reports and interviews it was determined that the District employee in question was paid from Child Support funds for September 2021 through January 2022. The employee was not cleared for hire by DHS until November 29, 2021, after all background checks were completed. There was also no indication the employee was ever given a DHS work phone, laptop, or given access to the child support information system after the approval.

During December 2021 the employee was paid for 184 hours of sick leave and in January 2022 was paid for 240 hours of annual leave. The annual leave payment was contrary to DHS contract guidelines which stated that DHS would reimburse the District for payments of up to 240 hours of accrued annual leave for an employee that had earned the leave while employed in the Child Support Division of the District.

In an interview the employee stated that once his background and fingerprint checks were approved on November 29, 2021, he saw the "writing on the wall" and took leave for the month of December and resigned on January 3, 2022. He also stated he never performed any work for the Child Support Division of the District while waiting on his approval from the proper departments.

***Finding        The District improperly charged DHS \$32,492.98 for the salary of a District employee who performed no work under the Child Support contract.***

The DHS-Office of Inspector General joined the investigation of this matter in approximately July 2022, confirming that the employee did not conduct work for the DHS Child Support program and that the District charged a total of \$32,492.98 to the program improperly. The funds were recovered by DHS through reduction of reimbursements in subsequent invoices.

### **Vehicle Usage/Gasoline Charges**

An allegation was reported to SA&I that an employee, not related to drug enforcement, utilized a District vehicle to commute to and from work with gasoline paid from the District's Drug Revolving Forfeiture Fund, monies that are statutorily<sup>5</sup> restricted to drug abuse related work.

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<sup>5</sup> 63 O.S. § 2-506 (L)(3)

Per the District's Finance Coordinator, the director of the District's Child Advocacy Center was allowed to drive a District vehicle as part of a *verbal* employment agreement. The gas usage for the vehicle was paid for with a Comdata fleet card.

Sixteen Comdata voucher claims were reviewed to determine if the gas usage was improperly paid for with restricted drug forfeiture funds. Manual notations on four claims reflected that charges by the Child Advocacy director, totaling \$1,017.63, were paid for with Drug Revolving Forfeiture funds. However, the printed name on the Comdata claim was that of a drug task force employee, not the Child Advocacy director.

Per the District's finance coordinator, the PIN of the drug task force employee was used by the Child Advocacy director until she could be assigned a unique PIN. During that period, the fuel costs were paid from the Drug Revolving Forfeiture Fund.

There was no physical proof that the Child Advocacy director drove the vehicle, it was verbal testimony only. *Vehicle logs are not utilized by the District* to document the actual driver of the vehicle, or the mileage driven. We were unable to determine the *actual* driver of the vehicle. The Comdata reports reflected that the drug task force employee was the driver, the handwritten note and verbal statements indicated that the Child Advocacy director was the driver.

To ensure that any possible misuse of Drug Revolving Forfeiture funds is corrected, it is recommended that the District reimburse the Drug Revolving Forfeiture Fund in the amount of \$1,017.63.

### **Diverted Warrant**

On May 4, 2022, SA&I was notified by the Pottawatomie County Treasurer that a credit had been applied to the Pottawatomie County General Bank Account for a warrant written from the DA Revolving Forfeiture Fund in the amount of \$229.14, dated May 19, 2021. The warrant had originally been processed and paid on May 28, 2021, using mobile deposit, but not discovered as misapplied by the bank until May 2, 2022.

The warrant was issued from the DA's Drug Revolving Fund to the County Court Clerk for the "process server" license of Preston Cox. The payment never made it to the Court Clerk's office but was deposited via mobile deposit into Cox's bank account.

To determine if there were any additional misapplied warrants within the DA Revolving Forfeiture Fund, *all* warrants issued from the Fund between January 2019 and March 31, 2022, were reviewed to determine if the endorsements were legitimate transactions of the intended recipients. From the review performed, it appeared there were no additional irregularities or anomalies pertaining to the payment of warrants. We recommend the proper authorities review this finding to determine if further action is warranted.

**Attachment 1**

OKLAHOMA COUNTY  
SEVENTH DISTRICT  
STATE OF OKLAHOMA



520 ROBERT S. KERR AVE, SUITE 505  
OKLAHOMA CITY, OKLAHOMA 73102  
(405) 715-1000

**DAVID W. PRATER**  
DISTRICT ATTORNEY

**JIMMY R. HARMON**  
FIRST ASSISTANT DISTRICT ATTORNEY

February 28, 2022

Cindy Byrd  
Oklahoma Auditor & Inspector  
2300 N Lincoln Blvd, Suite 123  
Oklahoma City, OK 73105

Re: Investigative / Forensic Audit of Financial Accounts of Oklahoma District Attorney Allan Grubb, District 23

Dear Auditor Byrd,

Beginning in 2019, District Attorney Allan Grubb, District 23, failed to remit appropriate funds from his District to the Oklahoma District Attorney's Council. The balance owed exceeded \$467,807.00. Considering unpaid IT User fees owed to the DAC, the amount owed exceeded \$679,198.00.

On September 7, 2021, DA Grubb entered into an agreement to repay the owed funds to the DAC. To date, District Attorney Grubb has utilized multiple funding sources to repay the outstanding balance. The balance has not been satisfied yet. Included in the deposits made to DAC from District 23 are approximately \$275,791.00 from DA Grubb's Drug Asset Forfeiture account, a fund normally restricted in its use.

Because certain funding streams available to Oklahoma's District Attorneys are considered restricted use funds, I am requesting an audit of District 23 funds to determine if funds remitted to the DAC from District Attorney Allan Grubb are being accounted for and used for authorized purposes. I am a board member of the Oklahoma District Attorney's Council. The District Attorney's Council's offices are in Oklahoma County, my jurisdiction.

**Attachment 1 – continued**

I request this audit out of a responsibility to assure that funds remitted to the DAC are funds from sources that may lawfully be applied to the outstanding accounts of District 23. On February 17, 2022, the Board of the Oklahoma District Attorney's Council voted unanimously to support my audit request.

I appreciate your assistance in this matter. Thank you in advance.

Yours truly,

/s/ David W. Prater

David W. Prater  
District Attorney



**Attachment 2**

**Agreement Between The District Attorneys Council And District 23 District Attorney Allan Grubb  
To Correct The Financial Condition of District 23  
September 7, 2021**

During the September 7, 2021, Special Meeting of the District Attorneys Council Board ("Board"), the current financial condition of Oklahoma District Attorney District 23 was discussed at length. In consideration thereof, District 23 District Attorney Allan Grubb presented his proposed plan of improvement to correct the situation no later than June 30, 2022. His plan consisted of the following:

1. Reduction in staff of at least three (3) FTE;
2. Reduction in three (3) salaries;
3. One staff member to be transferred to his Child Support Enforcement Office;
4. A promise to pay Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) from his Drug Asset Forfeiture fund as soon as a voucher can be approved and submitted; and,
5. No District Attorneys Council distribution of funds to District 23 from Prosecution Assessments and the Uninsured Vehicle Enforcement Diversion (UVED) program will occur until the negative balances are satisfied in full.

In addition to the above plan, the Board encouraged D.A. Grubb to review his office needs and staffing levels to determine whether he could further down-size to expedite correction of the situation. It was also suggested that DA Grubb proactively consider a furlough plan should his plan of improvement prove not to be as successful as he believes it will be.

Finally, the Board voted to require any new hires for District 23 be submitted to the Board for review, consideration and approval or denial until the negative balances are satisfied in full.

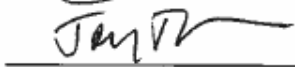
This agreement was entered into on the 7<sup>th</sup> day of September, 2021, and executed subsequent to that date. In executing this document, the undersigned agree to its truth and accuracy.

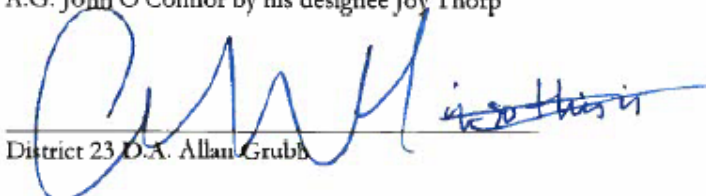
  
D.A. Matt Ballard, Chair

  
D.A. Jeff Smith, Vice Chair

  
D.A. Greg Mashburn, Member

  
D.A. David Prater, Member

  
A.G. John O'Connor by his designee Joy Thorp

  
District 23 D.A. Allan Grubb

O·K·L·A·H·O·M·A  
S·A·I  
STATE AUDITOR & INSPECTOR



**Cindy Byrd, CPA | State Auditor & Inspector**

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