

OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION

DECEMBER 1, 2004 THROUGH
SEPTEMBER 1, 2008

SPECIAL AUDIT



Oklahoma State Auditor
& Inspector



STEVE BURRAGE, CPA

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The Director of the
Oklahoma Department of
Wildlife requested the audit
pursuant to 74 O.S. 2001
227.8.



**Oklahoma Department of Wildlife
Conservation**

Special Audit Report

December 1, 2004 – September 1, 2008

Audit Summary:

- ✓ Funds may have been received and expended in violation of state law, state ethics rules and ODWC policy. **Pg 7**

To view a copy of the entire report , please visit our website at: www.sai.state.ok.us.

If you have questions or would like to contact our office, please call (405) 521-3495.

OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION

SPECIAL AUDIT REPORT

DECEMBER 1, 2004 THROUGH SEPTEMBER 1, 2008

STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA

State Auditor

MICHELLE R. DAY, ESQ.

Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-2426 www.sai.ok.gov

October 9, 2008

Mr. Greg Duffy, Director
Oklahoma Department of Wildlife Conservation
1801 N. Lincoln, P. O. Box 53465
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the Oklahoma Department of Wildlife Conservation. We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 227.8**.

A report of this type tends to be critical in nature; however, failure to report commendable features in the present accounting and operating procedures of the entity should not be interpreted to mean they do not exist.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Steve Burrage".

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

A handwritten signature in blue ink that reads "Michelle R. Day".

MICHELLE R. DAY, ESQ.
DEPUTY STATE AUDITOR & INSPECTOR

**OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION
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OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION
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OKLAHOMA DEPARTMENT OF WILDLIFE COMMISSION BOARD MEMBERS

M. David Riggs..... District 1
Bruce R. Mabry District 2
Mike Bloodworth District 3
Harland Stonecipher District 4
Mac Maguire District 5
Bill Phelps District 6
Mart Tisdal District 7
John Groendyke..... District 8

Greg Duffy
Director

Larry Mannering
Law Enforcement Chief

Jim Edwards
Law Enforcement Assistant Chief

STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-2426 www.sai.ok.gov

Mr. Greg Duffy, Director
Oklahoma Department of Wildlife Conservation
1801 N. Lincoln, P. O. Box 53465
Oklahoma City, Oklahoma 73105

Dear Mr. Duffy:

Pursuant to your request and in accordance with the requirements of **74 O.S. 2001, § 227.8**, we performed a special audit with respect to the Oklahoma Department of Wildlife Conservation for the period December 1, 2004 through September 1, 2008.

The objectives of our special audit primarily included, but were not limited to, the objectives expressed in your request for this audit. Our findings related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Oklahoma Department of Wildlife Conservation. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Oklahoma Department of Wildlife Conservation.

This report is intended solely for the information and use of the Oklahoma Department of Wildlife Conservation and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads 'Steve Burrage'.

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

A handwritten signature in blue ink that reads 'Michelle R. Day'.

MICHELLE R. DAY, ESQ.
DEPUTY STATE AUDITOR & INSPECTOR

September 29, 2008

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INTRODUCTION

The Oklahoma Department of Wildlife Conservation (ODWC) was created by **Article XXVI of the Oklahoma Constitution**. Under the Constitutional provisions, ODWC is governed by the Wildlife Conservation Director under such rules, regulations and policies as shall be directed by an eight (8) member Oklahoma Wildlife Conservation Commission.

Each of the eight (8) members of the Commission are appointed by the Governor and with the consent of the Oklahoma Senate. Each of the eight (8) Commission members are appointed to represent eight (8) individual Districts in Oklahoma. Each of the eight (8) members is appointed for a term of eight (8) years.

BACKGROUND

The State Auditor and Inspector's Office (OSAI), during an audit of the Woodward County District Attorney's Office, discovered a restitution payment that had been made to a local Game Warden and included the local Game Warden's home address.

This information was forwarded to the OSAI Regional Office in Weatherford and turned over to the OSAI Investigative Audit Division. Subsequently, OSAI contacted ODWC to determine the validity of the restitution payment.

ODWC performed an internal investigation into the matter and subsequently requested OSAI perform an investigative audit into what was determined, by the ODWC administration, to be an "unauthorized account".

Pursuant to the investigative audit request, OSAI conducted a special audit related to the questioned bank account. The results of the investigative audit are in the following report.

| | |
|-----------|---|
| OBJECTIVE | Review the deposits, expenditures and circumstances of an equipment fund account. |
|-----------|---|

| | |
|----------|---|
| FINDINGS | Funds may have been received and expended in violation of state law, state ethics rules and ODWC policy. |
|----------|---|

On 12/30/2004, a checking account was opened at a local banking institution in Woodard, Oklahoma. The original account application reflected the name of the account as the "8th District Equipment Fund" ("the account") and included ODWC Game Warden Paul Cornett's ("Warden Cornett") name and home address as well as ODWC Captain David Kirk's ("Captain Kirk") name and home address.

In response to a subpoena from OSAI, the bank provided copies of information related to the creation of the account in addition to deposits and expenditures. Included in the records provided was a handwritten note, dated 12/30/2004, which reflected:

To whom it may concern,

I, Paul Cornett, Oklahoma Game Warden, am opening this account. This account will have myself + David Kirk as signers on the account. David + I discussed this on September 22, 2004 and agreed to set up this account. The money in the account will have been donated by the public, and the funds used to purchase equipment for the game wardens in the 8th District (NW) Oklahoma.

The signature card for the account included both Warden Cornett and Captain Kirk.

Prior to the start of the audit, OSAI met with Lt. Col. James Edwards, ODWC Law Enforcement Assistant Chief, who provided that in years past, ODWC did have equipment fund accounts in each of the Districts; however, this practice had been stopped a number of years ago and all donations or other proceeds were to be sent to the Oklahoma City Office.

Lt. Col. Edwards provided OSAI with a survey that had been taken of the eight (8) ODWC District Captains. The survey included two questions addressed to the District Captains:

1. Do you know of any "Slush/Equipment" accounts set up in your district by you or any of your Game Wardens from

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funds that were received through the court systems for restitution or from private donations?

2. Are you aware of the fact that these accounts are against Department policies and procedures and are Illegal by State statutes?

The District 1 through 7 Captains responded they did not have these types of accounts and that they were aware these accounts were against ODWC policy.

Captain Kirk, the District 8 Captain, according to the survey, responded that he had such an account and was aware that it was against ODWC policy.

The survey includes comments by each Captain. Some of the Captains included comments on the existence of an equipment fund, as follows:

- District 1: "If there were I would have put a stop to it".
- District 2: "This was stopped some time back".
- District 3: "Remember when we were told not to do this".
- District 5: "Probably 10 years ago was told to stop this".
- District 8: "We have one, no others that I am aware of".

21 O.S. 341 states, in part:

Every public officer of the state or any county, city, town, or member or officer of the Legislature, and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state or any bureau or fund created by law and in which this state or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer's or person's hands or money to be raised through an agency for state, city, town, district, or county purposes; or

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the state, city, town, district or county, or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than twenty (20) years and, in addition thereto, the person shall be disqualified to hold office in this state, and the

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court shall issue an order of such forfeiture, and should appeal be taken from the judgment of the court, the defendant may, in the discretion of the court, stand suspended from such office until such cause is finally determined.

During fieldwork, OSAI attempted to interview Warden Cornett who advised he had hired an attorney. A short time after our interview attempt, OSAI was contacted and subsequently met with the Attorney representing Warden Cornett. The Attorney advised OSAI he was reluctant to have Warden Cornett make a voluntary statement at this time.

OSAI had subsequent discussions with Warden Cornett's Attorney, both by telephone and in person. During these conversations, the Attorney advised OSAI that Warden Cornett had spoken with Captain Kirk prior to opening the account and had been given permission by Captain Kirk to open the account.

As of the conclusion of fieldwork, OSAI had been unable to speak with Warden Cornett directly.

OSAI was able to interview Captain Kirk who stated that he was aware that ODWC had used local equipment accounts in the past but that the practice had been stopped several years ago.

Captain Kirk stated that he did have a discussion with Warden Cornett concerning the account and he was aware the account existed. During the interview, Captain Kirk expressed that he knew "headquarters probably wouldn't like" the account but that he didn't think having the account was illegal.

Captain Kirk did not review the expenditures from the account until after he was contacted by Lt. Col. Edwards around the first of September, 2008. Once contacted by Lt. Col. Edwards, Captain Kirk met with Warden Cornett and went over the account and expenditures.

ODWC provided OSAI with copies of cancelled checks and receipts for the expenditures from the account that had been received by ODWC during the course of their internal investigation. Additionally OSAI obtained, by subpoena, cancelled checks, deposit slips and monthly statements from the bank in order to verify the information provided by ODWC was accurate and complete.

Account Deposits

In reviewing the account, OSAI found five (5) deposits, totaling \$2,953.60, were made to the account and seventeen (17) checks, totaling \$838.31, had been written between December 2004 and

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August 2008. The account was closed and the balance of \$2,115.29 was forwarded to ODWC headquarters on 9/3/2008.

OSAI was provided documentation from Warden Cornett's Attorney which included copies of checks deposited into the account, copies of warnings and copies of citations.

29 O.S. 3-201E, states:

Any game warden who solicits or accepts any bribe or money or other thing of value in connection with the performance of duty as a game warden shall be guilty of a felony and, upon conviction, shall be sentenced to a term not less than two (2) years nor more than seven (7) years in the custody of the Department of Corrections and shall be summarily removed from office.

From the documentation, OSAI found a pattern to the majority of the deposits made to the account. In four (4) instances Game Warden Cornett had written warnings to the same individuals who subsequently made "donations" to the account. Examples include:

- On 12/2/2005 Warden Cornett wrote two warnings to a local resident. On 12/8/2005 the same resident "donated" \$505.20 to the account.
- On 11/25/2004 Warden Cornett wrote four (4) warnings to a local resident. On 1/17/05 the same resident "donated" \$658.40 to the account.

In addition, four (4) citations were written to four (4) individuals for "overlimit of doves". According to Warden Cornett's Attorney, these four individuals "donated" funds to the account apparently in appreciation for not having additional charges pursued.

All seven (7) of the individuals who made "donations", totaling \$1,663.60, to the account had, prior to making the "donations", been contacted by Warden Cornett in his official capacity for apparent violations of Wildlife laws.

Oklahoma State Ethics Commission Rule 257:20-1-3, states, in part:

No state officer or state employee shall:

. . . .
receive or solicit any compensation that would impair his or her independence of judgment for his or her services as an officer or employee of any state agency, from any source other than the state [...]

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Oklahoma State Ethics Commission Rule 257:20-1-9, states, in part:

No state officer and no state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for the state officer or employee or for any other person or entity, in return for being:

Influenced in the performance of an official act;

. . .
Induced to perform or fail to perform an act in violation of the state officer's or state employee's official duty.

Included in the documentation provided by Warden Cornett's Attorney were two receipts for the "8th District Equipment Fund" written to two separate individuals who "donated" \$658.40 and \$50.00. The receipts, which are printed on ODWC Agency letterhead, state the "donations" are being made "entirely on a voluntary basis" and the donations are to be used "for official wildlife law enforcement purposes only".

Attachment A to this report denotes the relationship between the time Warden Cornett officially contacted the donors in his official capacity as a State Game Warden and the time the donations were made.

On 12/20/2007, the District Attorney's Office for District 26 issued a restitution check to the "8th District Equipment Fund" in the amount of \$1,290.00 for restitution for damage done to a deer decoy.

The restitution check was deposited into the account on 1/4/2008. OSAI noted the address on the restitution check is Warden Cornett's home address.

In total, \$2,953.60 was deposited in the account including \$1,663.60 from individuals who had been previously contacted during the performance of Warden Cornett's duties as a state game warden.

Account Expenditures

OSAI examined all seventeen (17) checks, totaling \$838.31, written from the account. All of the checks were single signature checks signed by Warden Cornett.

Of the \$838.31 total expenditure amount, receipts were provided for \$663.43 (79%) of the expenditures. No receipts were provided for four (4) expenditures totaling \$174.88 (11%).

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OSAI reviewed the account expenditures. They are detailed in Attachment B. The expenditures do not appear to have been for personal gain.

After an internal investigation was undertaken by ODWC on 9/2/2008, Warden Cornett submitted two inventory reports, both dated 9/4/2008. The inventory items were the GPS unit and hand-held radios purchased 10/5/2005 and 12/4/05, respectively.

29 O.S. 3-302(B), states, in part:

The expenditures of the Wildlife Conservation Fund shall be under the control and supervision of the Commission, and all claims against said fund shall be paid on its itemized voucher form, prepared by said Commission and sworn to by the claimant, and/or vendor's invoices as authorized under Section 86.1, Title 74 [74-86.1] of the Oklahoma Statutes. All such claims when duly signed and sworn to shall be audited by the Commission and/or designated employees and, upon final approval, vouchers which are payable from said fund shall be forwarded to the Director of State Finance. Upon approval thereof, warrants shall issue according to law, and said warrants shall be paid by the State Treasurer from said fund.

62 O.S. 41.16(A), states, in part:

Whenever departments, institutions, boards, commissions or agencies of this state enter into contracts for, or on behalf of the state for the purchase of goods, wares or merchandise, or for construction of buildings, roads, bridges or any other thing for which labor and materials must be furnished by outside vendors, such agreement shall be evidenced by written contracts or purchase orders, and must be transmitted to the Director of State Finance within a reasonable time as determined by the Director of State Finance from the date of awarding of such contract or purchase order.

Based on the records OSAI obtained, it appears the account was created and used as a means to circumvent state law and internal ODWC requirements concerning the purchase of equipment and expenditure of funds.

RECOMMENDATION OSAI recommends the proper authority review this finding to determine what action, if any, may be required.

OTHER CONCERNS After our fieldwork was concluded, OSAI was made aware of the possible existence of other similar accounts. Because these allegations are beyond the scope of this engagement, OSAI informed ODWC of these concerns to allow ODWC to take the appropriate action necessary.

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DISCLAIMER

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the ODWC Director and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that the Oklahoma Department of Wildlife or any of the individuals named in this report or acting on behalf of the Oklahoma Department of Wildlife have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the Oklahoma Department of Wildlife policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.

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Attachment A
Time Relationship Concerning Donations

| Contact Date | Contact Type | Date of Donation | Date of Deposit | Amount | Contact Purpose |
|--------------|--------------|----------------------|-----------------------|--------------------|---|
| 12/2/2005 | Warning | 12/8/2005 | 12/14/2005 | \$505.20 | Overlimit <i>[sic]</i> of buck deer Failure to check deer at station |
| 11/25/2005 | Warning | 1/17/2005 | 2/3/2005 | \$658.40 | Failure to check deer at station Hunting w/o valid license Overlimit <i>[sic]</i> of buck deer Illegal Possession of Buck Deer |
| 11/23/2005 | Warning | 2/3/2005 9/3/2006 | 2/3/2005 9/26/2006 | \$50.00 \$50.00 | Hunting Deer w/o valid tag Attempt. Exceed Bag Limit Deer |
| 9/6/2004 | Citation | 9/22/2004 | 12/30/2004 | \$100.00 | Overlimit <i>[sic]</i> of doves |
| 9/6/2004 | Citation | 9/22/2004 | 12/30/2004 | \$100.00 | Overlimit <i>[sic]</i> of doves |
| 9/6/2004 | Citation | 9/21/2004 | 12/30/2004 | \$200.00 | Overlimit <i>[sic]</i> of doves. |
| | | | | \$1,663.60 | |

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**Attachment B
(Expenditures)**

| Check # | Date | Payee | Description | Amount | No Receipt |
|---------------------------|------------|------------------------|---|-----------------|------------|
| 101 | 3/11/2005 | Pioneer Cellular | Mobile phone holder | \$23.00 | |
| 102 | 3/24/2005 | Wal-Mart | Batteries for Decoy | \$27.81 | |
| 103 | 4/4/2005 | Woodward Co. Abstract | Plat Book | \$30.00 | |
| 104 | 6/8/2005 | Paul Cornett | Reimbursement for baby milk and bottle for fawn deer. | \$16.45 | |
| 105 | 7/5/2005 | Wal-Mart | Batteries for pager & hand held radios | \$10.54 | |
| 106 | 10/5/2005 | Its Fur Real Taxidermy | Hide for deer decoy | | \$75.00 |
| 107 | 10/5/2005 | Woodward Co. Abstract | Ownership Plat Book | | \$35.00 |
| 108 | 10/5/2005 | Wal-Mart | GPS Unit for Patrol Truck | \$183.92 | |
| 109 | 11/28/2005 | Cherry Blossom | Flowers for OBN Agent Funeral | | \$27.05 |
| 110 | 12/4/2005 | Wal-Mart | Handheld radios | | \$37.83 |
| 111 | 1/18/2006 | Wal-Mart | Trash Bags for Community Service | \$13.68 | |
| 112 | 3/8/2006 | Cherry Blossom | Flowers for Captain D. Kirk | \$29.05 | |
| 113 | 6/5/2006 | Wal-Mart | Trash Bags, Water, ice | \$31.36 | |
| 114 | 7/15/2006 | Wal-Mart | Trash Bags for Community Service | \$10.80 | |
| 115 | | Stop Payment | | | |
| 116 | 11/15/2006 | Ira Dunham | Foam form for deer decoy | \$213.00 | |
| 117 | 12/6/2006 | G&G Electronics | CB Antenna | \$29.32 | |
| 118 | 7/18/2007 | United Supermarkets | Food for educational program | \$44.50 | |
| | | | | \$663.43 | \$174.88 |
| Total Expenditures | | | | \$838.31 | |



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