

I. INTRODUCTION AND FINDINGS

Over the past six months, the Sixteenth Multi-County Grand Jury of Oklahoma received evidence related to the inappropriate accounting practices and financial mismanagement at the Oklahoma State Department of Health ("Department of Health", "Department", or "OSDH"). The Multi-County Grand Jury would like to thank the Auditors from the Oklahoma State Auditor and Inspector's Office, Special Agents with the Federal Bureau of Investigation, Agents with the United States Department of Health and Human Services, and the legal advisors, investigators, and support staff within the Office of Attorney General assigned to the Multi-County Grand Jury Unit for their hard work and dedication in seeking the truth surrounding this investigation.

The Multi-County Grand Jury, after careful consideration of all the evidence, including witness testimony, physical evidence, interviews conducted by investigators and legal advisors to the grand jury and agents of the aforementioned outside agencies, does hereby submit to this Honorable Court this report of its findings:

1. The Department of Health was never insolvent. The Department had ample cash to pay all of its expenses, including payroll, through the end of the fiscal year. In particular, the failure of the Department to pay the Ryan White insurance premium until it nearly defaulted was unnecessary, as there was ample unrestricted cash available for the premium payment to be made. The emergency supplemental appropriation was unnecessary and remains unspent in the Department's fund balances.
2. The Department of Health, through manipulation of federal and state funds, maintained a slush fund¹ that allowed the Department to overspend without consequence.
3. The Department's Reduction in Force ("RIF"), which eliminated the jobs of 198 Oklahomans, was unnecessary. The Department had sufficient money, both budgeted and in its slush fund, to pay for these positions. In particular, the abolishment of certain classified positions did not serve the purposes submitted to the Legislature and the Office of Management and Enterprise Services ("OMES") in the proposed RIF, as they did not save the State appropriated dollars as claimed by the Department of Health.
4. Annual budgets submitted to the Legislature and OMES had no basis in reality; federal dollars received and spent were routinely overstated by tens of millions of dollars.
5. The Oklahoma State Board of Health ("the Board") failed to provide proper financial oversight. Senior Leadership at the Department of Health dictated what information the Board received regarding finances. Senior Leadership prevented the Internal Auditor access to the Board, preventing him from exercising his duty to brief the Board. This resulted in the Board's inability to exercise its statutory fiduciary duty.
6. The financial unit at the Department of Health lacks training, education, and knowledge of proper financial systems and protocols.
7. The use of an antiquated internal financial system, as opposed to the statewide financial system used by the vast majority of other state agencies, was a direct cause of the perceived financial crisis and masked the slush fund maintained by the Department. The lack of reconciliation of

¹ Discussed more fully at II(2); throughout this report, "slush fund" refers to discretionary dollars held by the Department within its federal fund with no legislative oversight or accountability. This is the same term used within the Investigative Audit as discussed beginning at Appendix A, p. 35.

financial information between the Department and the statewide system at OMES must be addressed in order to prevent future fiscal mismanagement.

8. The Department misused the Incident Command Structure, a form of crisis management utilized for tornadoes or infectious disease outbreaks, to internally address the perceived financial crisis.

The Multi-County Grand Jury finds reprehensible the inept practices and processes conducted by the Department of Health before and after the alleged financial crisis came to light. The lack of a criminal statute covering the mismanagement, deception, and obfuscation by the Department of Health is lamentable. Fortunately, no state dollars were spent in an unlawful way. No federal or state dollars were embezzled or stolen by employees at the Department. While financial mismanagement, fictitious fiscal reporting, and reckless overspending abounded at the Department, no criminally prosecutable conduct provable by proof beyond a reasonable doubt was identified. The Multi-County Grand Jury expresses hope that the Legislature will take note of the unique facts and circumstances of this investigation, and appropriately amend criminal statutes to encompass some of the actions taken by individuals throughout this investigation.

In this Interim Report, the Multi-County Grand Jury will explain these findings by addressing first the alarm raised by the former Chief Financial Officer and former Chief Operating Officer and why that alarm ultimately proved to be false. Next, the Multi-County Grand Jury will reveal the general practices at the Department of Health that led both to this inconceivable error as well as the problems surrounding the financial system within the Department in general. Finally, the Multi-County Grand Jury will detail its recommendations to the Department, the Legislature, the Governor, and the Board to ensure the identified problems are corrected. Certain portions of this report will rely heavily on the Investigative Report of the State Auditor and Inspector (“SAI”), attached as an appendix to this report, and will be complemented with the testimony and evidence submitted exclusively to the Multi-County Grand Jury.

II. UNDERSTANDING THE FINANCIAL CRISIS

The Department of Health launched itself into the public spotlight in the fall of 2017 when management startlingly claimed that the Department was out of money and would be unable to remain solvent through the fiscal year. In order to understand why this was not true, it is important to first understand the claim – and how close to coming true it actually was. Thus, part (1) will first explain what those inside the agency came to believe and their attempts to get this information to those in positions to solve the problem. It is alarming the number of times this information was repeated to those in Senior Leadership with no meaningful response or action taken. As explained in part (2) below, were it not for the slush fund maintained by the OSDH, the Department would have gone bankrupt within the past couple of years. Finally, part (3) explains the aftermath at the Department and the efforts to fix the problem, and how those efforts actually compounded the crisis.