



July 29, 2013

To: Jason Hicks,  
District Six District Attorney  
101 S. 11<sup>th</sup>  
Duncan, OK 73533

Dear Mr. Hicks:

I write to you today concerning recent disturbing and illegal behavior within your District Six Drug Task Force. As you are aware, it has recently come to light that your office entered into an agreement with a for-profit private contracting firm, Desert Snow, LLC (also known as Black Asphalt, LLC), to aid in drug interdiction operations within Caddo County, Oklahoma, in exchange for a percentage of the Task Force's profits.

While such a profit sharing scheme may technically not be illegal, this ethically questionable arrangement has led predictably to illegal conduct. While we have yet to determine the scope of this criminal activity, it is already clear that at least three representatives of Desert Snow, Kenneth Haas, David Frye, and company founder Joseph David, have falsely impersonated peace officers, a misdemeanor offense in violation of 21 O.S. §264.

We understand that none of these men are, or ever have been, CLEET-certified Oklahoma law enforcement officers. Despite this, they are operating law enforcement vehicles, pulling over motorists, questioning drivers and passengers, and searching and detaining people and property while armed with weapons capable of deadly force and wearing shirts with a badge or seal emblazoned on the breast. Such conduct is more than sufficient to fulfill the elements of 21 O.S. §264, creating in those citizens questioned and detained the false perception that Haas, Frye, and David are empowered with the authority of a peace officer.

Furthermore, sworn affidavits of real Task Force officers not only document the behaviors above, but demonstrate that Haas, Frye, and David are referred to as "Officer Haas," "Officer Frye," and "Officer David," respectively. As you are well aware, "Officer Haas," "Officer Frye," and "Officer David" are not officers at all, but rather private citizens pretending to be peace officers, and engaging in potentially deadly encounters without the benefit of the 600 hours of instruction mandated for an Oklahoma professional peace officer, and without a shred of public accountability.

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These actions are not only criminal and incredibly dangerous, but also in violation of public trust. Perhaps worse, they betray another trust: thousands of real Oklahoma peace officers serve their communities honorably every day, sacrificing constantly to keep our cities and towns safe and free, and at times giving their lives to protect us. This conduct disgraces and demeans their profession and their sacrifices.

With these things in mind, we call upon you to do your duty to seek justice and prosecute crime. Haas, Frye, and David have committed a serious offense. Now they must face the consequences. While you and the attorneys of your office face a clear conflict of interest in making any charging decisions, you have the power to request the Attorney General appoint a conflict prosecutor and to request the Oklahoma State Bureau of Investigation initiate an investigation of your office. We ask that you do both.

In addition to the inherent conflict of prosecuting men you hired, serious questions remain as to the extent of your office's involvement in placing these fake police on the highway to confront real citizens. In particular, your public statements suggest that you or your subordinates may have played a significant role in facilitating these false impersonation offenses by attempting to manufacture peace officer status through an incorrect use of your ability to employ DA investigators.

You have stated on the record that you, "commissioned and credentialed Desert Snow employees as my officers of my task force because that gives them the authority to participate in anything on the side of the road." While it is true that under 19 O.S. §215.35A, district attorneys are authorized to employ investigators, those investigators are only vested with the power of peace officers when they are or become certified as peace officers through CLEET. Whatever your intentions in credentialing these men, you lack any authority to grant someone peace officer status. Whether or not someone is employed by a district attorney's office has no bearing on whether they can wield peace officer authority legally.

In Oklahoma, as throughout our great nation, we have a cherished democratic tradition in which all are subject to the rule of law. The people of Oklahoma, through their elected representatives, determined a process for training and certifying peace officers—one which helps to ensure honesty, integrity, and competence. Your whims do not trump the duly-enacted laws of the State of Oklahoma, and neither you nor the counterfeit cops you hired are above the law.

The question that ultimately must be answered by the OSBI or other appropriate independent authorities is whether any attempt to manufacture peace officer status was the result of deliberate manipulation and conspiracy or merely a



serious, but unintentional, misjudgment caused either by lack of familiarity with the laws governing the operation of your office or lack of competence in understanding them. At present, there are no unbiased parties who can answer that question. An independent investigation is critical to regaining the public trust or bringing offenders to justice.

Moreover, such an investigation is also needed to address further disturbing issues with the operation of the District Six Drug Task Force. While we are still in the process of obtaining and analyzing information, it is already apparent that there are numerous signs of potential malfeasance in the taking and keeping of citizens' property.

For example, there are multiple cases in which your office has filed forfeitures to permanently take money and property from private citizens where no charges were ever filed and no evidence presented linking them to any criminal activity whatsoever. In several of these cases, law abiding citizens allege that they were made to sign disclaimers of ownership through coercion, having been falsely threatened with jail and criminal charges if they resisted officers' attempts to take their property. These citizens' only crime, perhaps, was being in possession of money that officers wanted to take, and your office wants to spend.

In other cases, it appears your office may be sending notices of forfeiture to incorrect or even non-existent addresses despite having access to documents from the property's rightful owners that should provide the correct means of contact. Naturally, a citizen who never receives notice of a forfeiture has a much tougher time fighting one. Whether or not such citizen is in the wrong or right, any deliberate attempt to avoid giving him or her notice is a massive violation of the right to due process.

In at least one case (so far), there is evidence that someone in the Task Force did something far less sophisticated than coercion schemes or false affidavits concerning notice—it appears they simply pocketed \$400 from a seizure. This evidence has only come to light because that money's rightful owner is contesting that seizure. In those numerous cases in which coercion may have taken place and notice never been given, we have no way of knowing how much more money could have been skimmed in the same way.

The concerns expressed above, though more than sufficient to warrant a state, if not federal, investigation of the Task Force and your office, still say nothing of the allegations of profiling, false pretext for traffic stops, unlawful detentions, and the like.

All things considered, it is clear that the activities of the District Six Drug Task Force must be investigated thoroughly and objectively, and that those engaging in criminal conduct under color of law must be brought to justice. Anything less would be a further insult to the people of Caddo County, the Sixth District, and the State of Oklahoma.

Please note that our organization also will continue to investigate the civil implications of all that has happened. At this time, I cannot say with certainty whether civil litigation will be forthcoming, though it is naturally a possibility. In addition, we will be in contact with the appropriate federal authorities as needed to ensure that the constitutional rights of those traveling through Caddo County are protected.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brady R. Henderson", with a long horizontal flourish extending to the right.

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