

## Policy & Procedure

### District Attorney Hot Check Policy/Procedures

I. When you accept any check, you must obtain the needed information on the check passer to help identify him/her in court. This data includes driver's license or identification number, physical home address, home phone number, place of employment, and work number.

II. The holder of the check must present the check to the named bank for payment, even in those instances where it is known that the check will not be honored.

III. The bank, upon returning a "hot check" or "worthless check", will stamp the check or attach a bank flag stating "Insufficient Funds", "Account Closed", "No Account Found", etc. The bank flag must be left attached to the check if the check itself is not stamped.

IV. The Holder of the returned "hot check" must mail a 10-day written notice to the check maker informing him/her that the check was not honored by the bank, listing the reason as noted on the check, requesting payment in full. The notice must be dated and must state that the maker has ten (10) days from the date of the notice to make restitution. The notice must be mailed by registered or certified mail, return receipt requested. Even when holder does not have a valid address on the check passer, service must still be attempted by mailing the notice to the address on the check. A copy of the notice should be made and retained by the holder.

V. If the maker does not pay or honor the check within the ten (10) days after service of the notice, the check may be presented to the District Attorney's Office by the holder, furnishing the following:

- ORIGINAL CHECK. (The bank must stamp the check, or have an attached bank flag, showing proof the check was not honored.)
- ORIGINAL SIGNED POSTAL RETURN RECEIPT OR UNCLAIMED LETTER.
- COPY OF THE 10-DAY NOTICE.
- WORTHLESS CHECK REPORT. (Information requested on this form is needed to successfully locate and prosecute the check passer. Form should be signed and dated.)

VI. Checks should be turned over to the District Attorney's Office within ninety (90) days after being returned from the bank.

VII. Once a check has been turned over to the District Attorney, you must not accept payment on the check from the check passer. You should refer the check passer to the District Attorney's Office. If you or an employee should accept payment on the check, you will be responsible for the statutory fee imposed by the District Attorney's Office for that check.

VIII. Under Louisiana law, the District Attorney's Office does not file a criminal complaint under Issuing Worthless Checks for the following types of checks:

- Post-dated, undated, "hold" or "stop payment" checks.
- Two-party checks or payroll checks.
- Checks for which partial payment has been received.
- Checks more than one (1) year old.
- A check for less than \$5.00.
- A check given in exchange for a returned check.
- Checks not presented within ten days from the date of the check.
- Checks in which the ten-day notice was not sent to maker by certified or registered mail.

IX. The District Attorney's Office will file a criminal complaint on an out-of-state check, however it is not common practice to extradite Worthless Check charges. When accepting an out-of-state check, be sure to get valid identifying information from the state of residence.

X. When the drawer submits a Forgery Affidavit on a "hot check" being worked by the District Attorney's Office, the Office will forward the affidavit, along with the check, to the Caddo Parish White Collar Crimes Task Force. Merchants will be notified. If you receive a Forgery Affidavit on a check before contacting the District Attorney's Office, please contact the White Collar Crimes Task Force at (318) 866-2424.

XI. Check records in the District Attorney's Office are kept according to the name of the person who actually signed the check, regardless of the name or names imprinted on the check.

XII. When collecting restitution on a "hot check", the District Attorney's Office will request that the drawer remit a money order or bank cashier's check made payable to the Caddo D. A. for the total amount of the check and all fees. Once a month, generally the 20th, the District Attorney will disburse payments to the merchants/complainants. The disbursement check will be for the total amount of all payments received on behalf of that complainant since the last disbursement check was issued. A detailed list will accompany each disbursement with a breakdown of all monies collected. You should inform the District Attorney's Office immediately of any change of address to insure disbursements are received promptly.

XIII. The Worthless Check Division of the Caddo Parish District Attorney's Office will diligently attempt to collect on all acceptable checks submitted for collection. We collect the face amount of the check plus a \$25.00 service charge for the complainant. Checks should be sent to the Caddo DA at the address on the cover.

#### Recommended Guidelines for Businesses Accepting/Cashing Checks

1) Establish a firm policy regarding requirements for check cashing and accepting checks for payment of merchandise and/or services rendered.

2) Require a valid check with all items of information legibly filled in, including the complete date, check amount correctly expressed in numerals and words, the maker's address, telephone number, driver's license number, place of employment and work number. Post Office Box numbers must be accompanied by maker's physical address.

3) Require the check to be signed in the presence of the employee accepting the check. Require the employee to initial the check after acceptance.

4) Require proper identification. A Louisiana driver's license or state-issued picture identification card is preferred. Compare the photograph or description on the identification to the person passing the check, and compare the signature on the identification to that on the check. **BE SURE ALL IDENTIFICATION INFORMATION IS CURRENT AND CORRECT.** If the person presenting the check refuses to give identification, or there is insufficient identifying information, do not accept or cash the check. In certain instances, you may wish for the drawer to give a thumbprint signature.

5) The employee accepting the check should record all identification numbers on the check itself, even if said numbers are already printed on the check. Employees should place their initials on the check when accepting it.

6) When accepting business checks, be sure the signature on the check is legible. Check identification of the person passing the check (including home address and telephone number) and record this information on the check.

- 7) Do not accept an undated or post-dated check, nor one that is dated twenty days previously. Never accept a check and tell the person that you will hold it for a few days. These types of checks cannot be criminally prosecuted.
- 8) Call the bank or check other reference sources when in doubt about the validity of a check.
- 9) Never hold a check for over ten (10) days before presenting it to the bank for payment. When the bank returns the check, take immediate action.