

**▶▶ Hot Checks Unit****[Click here to View Hot Check Warrants](#)****Hot Checks:**

The goals are 1) the prompt collection of the face amount of the check and fees for the benefit of the payee, and 2) prosecution of misdemeanor hot check writers in accordance with County Attorney guidelines.

- Maximize collection of money from hot check writers for the benefit of the business community and general public
- Implement prompt and brief pre-prosecution collection system
- Develop and deliver presentations to educate merchants on proper pre-referral procedures
- Review and prosecute backlog of hot check accounts
- Implement a system of status reports for merchants which refer large volume of checks
- quicker payments of restitution to merchants

**What is a Hot Check?**

What can you do to protect yourself against persons who pass these worthless checks?

Who can help you handle a situation where a check writer refuses to pay the value of their hot check?

The following information will answer these and many other questions you may have about hot checks and how they are handled in the El Paso County Attorney's Office.

**What Can the County Attorney Do?**

This office actively enforces the laws, which prohibit check writers from passing hot checks to both merchants and individuals throughout the State of Texas. The State legislature authorizes El Paso County to collect and process hot checks. And the Texas Penal Code empowers this office to aggressively prosecute check writers who pass these hot checks.

**How Can the County Attorney Help?**

The County Attorney's Office makes every attempt to collect restitution from those check writers who pass worthless checks. If we cannot successfully collect restitution from a check writer then this office will prosecute those cases which satisfy the elements of the Texas Penal Code. Our goal is to save you money by actively pursuing hot check offenders.

**How Can I Protect Myself**

You should use the following safeguards before you accept a check...

**First, Examine the CHECK CAREFULLY!**

- Be cautious when you accept a check with a low check number below 250
- Make sure the date is correct
- Make sure the amount is correct in both places
- Make sure no one has altered the amount
- Make sure that the name the check is made payable to (the payee) is correct
- Make sure that the name the check is made payable to has not been altered.

**Second, Request IDENTIFICATION!**

A Texas Driver's License is the best form of identification. A military identification card is acceptable. Local credit cards and other forms of photo identification may also be helpful. A social security card is only acceptable if it is offered with a form of picture identification that matches the check.

**Third, Examine The IDENTIFICATION**

-Make sure the person passing the check matches the photo on the identification.

-Make sure the check address matches the address on the identification.

-Make sure the expiration date on the identification has not already expired.

-Make sure the check name and signature matches the name and signature on the identification.

-Make sure the date of birth on the check matches the date of birth on the identification.

#### **Fourth, Don't Ignore RED FLAGS!!**

If you believe the check is suspect, don't accept the check. If you believe the identification is questionable, don't accept the check. If the check and identification do not match, don't accept the check.

You Should Take the Following Steps When You Accept a Check:

-Always copy the identification number and date of birth onto the front of the check.

-Always place your initials or I.D. number on the front of the check.

-Always record the check writer's home and work phone number on the front of the check.

#### **Why Are These Safeguards Important?**

The County Attorney's Office cannot effectively prosecute check writers who pass hot checks if you do not use these safeguards. We must be able to identify the person who accepted the check in order to take the case to trial. That person may be asked to identify the check writer in court at the time of trial. If that person cannot identify the check writer, then we must rely on the information copied of recorded onto the front of the check. If no information has been recorded onto the check and no one can identify the check writer who passed the worthless check, then it is very unlikely that the check writer will be prosecuted.

#### **How Should I Handle a Hot Check:**

**You should take the following steps when you receive a hot check...**

1. Send a notice of dishonor to the check writer.
2. In the notice dishonor:
  - a). demand payment within ten days of receipt of the notice;
  - b). request a merchant collection fee if it is authorized by Texas Business & Commerce Code Section 3.506
  - c). send a copy of the check(s) to the check writer.
3. Send the notice of dishonor by certified mail, return receipt requested.
4. Keep a copy of the notice of dishonor with the original check.

**If the Check writer does not respond you should send these four items...**

- The original check
- The copy of the notice of dishonor
- The return receipt (green card) or sealed returned envelope
- the County Attorney Hot Check Intake form.

#### **PLEASE SUBMIT THIS INFORMATION TO:**

The County Attorney's Office  
Attention: Hot Check Department  
500 E. San Antonio, Room 503  
El Paso, Texas 79901

#### **What will the County Attorney Do?**

This office will immediately send a demand notice to the

check writer. The check writer will be given fourteen (14) days to pay full restitution which will include the amount of the check, any applicable merchant collection fees and the County Attorney fee. Any check writer who fails to pay the total amount owed is subject to criminal prosecution and possible arrest.

**Once Submitted to Our Office:**

- You should not accept any payments fro the check writer.
- You should direct the check writer to pay the total amount at the County Attorney's Office

If our collection efforts are successful, you will receive a merchant check once our County Auditors Department has processed it.

**What happens next?**

If collection efforts are unsuccessful, the office will review the case for prosecution. This is a case for prosecution. This is a case by case process. Our office prosecutes offenders when appropriate and possible.

**The Following Checks Are Not Handled By This Office**

- Checks post-dated form date of issuance
- Checks stamped "irregular signature"
- Checks Stamped "refer to maker"
- Checks which are reported stolen
- Checks which have been forged
- Checks issued in civil cases
- Checks for the repayment of a loan

**The County Attorney's Office can help save you money through a cooperative effort between this office, businesses and individuals like yourself. If you follow the safeguards and procedures outlined in this brochure, we can create a partnership, which will allow this office to effectively collect from and prosecute check writers who pass worthless checks. We are here to serve you.**

Sincerely,

*Jo Anne Bernal*

Jo Anne Bernal  
El Paso County Attorney

