

**DISTRICT ATTORNEY
DISTRICT 1**

**PROPERTY
FORFEITURE FUND**

**FOR THE YEAR ENDED
JUNE 30, 2009**



**STATUTORY
REPORT**



Oklahoma State Auditor
& Inspector

**JAMES M. BORING, DISTRICT ATTORNEY
DISTRICT 1
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED JUNE 30, 2009**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



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January 3, 2011

James M. Boring, District Attorney
District 1
Texas County Courthouse
Guymon, Oklahoma 73942

Transmitted herewith is the statutory report for the District Attorney of District 1, Beaver, Cimarron, Harper, and Texas Counties, Oklahoma (the District) for the fiscal year ended June 30, 2009. A report of this type is critical in nature; however, we do not intend to imply that there were not commendable features in the present accounting and operating procedures of the District.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our procedures.

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

Sincerely,

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

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

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INTRODUCTORY INFORMATION

Most district attorneys in the state have a Property Forfeiture Fund. The fund is not subject to fiscal year limitations and is to be used for enforcement of controlled dangerous substances laws, drug abuse prevention and education, and is maintained by the District Attorney to be used at his or her discretion for those purposes. The revenues for said fund come from the proceeds of forfeited assets.

Any cash, vehicles, real property, or other assets used in the commission of or acquired as a result of a crime as described in the Uniform Controlled Dangerous Substances Act is presumed to be forfeitable.

Asset forfeiture is an effective law enforcement tool used by local district attorneys to deprive criminals of their ill-gotten gains by seizing the proceeds of criminal activity and property used to facilitate crime. The proceeds of seized, forfeited assets make a substantial contribution to the investigation and prosecution of drug related offenses.

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Statutory Report

James M. Boring, District Attorney
District 1
Texas County Courthouse
Guymon, Oklahoma 73942

For the purpose of complying with 74 O.S. §212 (E) and 63 O.S. §2-506, we have performed the following procedures as they relate to the records of the Property Forfeiture Fund for the fiscal year 2009:

- Determine that the District Attorney maintains a true and accurate inventory of all property seized in accordance with 63 O.S. § 2-506.K.
- Examine a group of receipts and deposit slips for propriety.
- Review sale documentation for selected cases to determine whether forfeited assets were sold after due notice at public auction to the highest bidder in accordance with 63 O.S. §§ 2-506 and 2-508.
- Review the distribution of proceeds of the sale for selected cases to determine the distribution was in accordance with Court order pursuant to 63 O.S. §§ 2-506.K and 2-508.
- Determine whether expenditures tested were supported by approved claims, invoices, and independent verification that goods or services paid for were received.
- Determine whether the District Attorney prepared and submitted an annual report to the Board of County Commissioners showing the total deposits, total expenditures, beginning and ending balances in accordance with 63 O.S. §2-506.L.3.
- Determine whether the District Attorney reconciles the balance with the County Treasurer monthly.

Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with accounting standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Beaver, Cimarron, Harper, or Texas County.

Based on our procedures performed, and with respect to items tested, the District maintains a true and accurate inventory of all property seized; was properly receipting and depositing the proceeds of forfeitures; forfeited assets were sold after proper notice at public auction to the highest bidder; the proceeds of forfeitures were distributed as directed by Court orders; the District Attorney prepared and submitted an annual report to the Board of County Commissioners; and the District Attorney reconciled the balance of the Property Forfeiture Fund with the County Treasurer's records monthly. With respect to expenditures being supported by approved claims, invoices, and independent verification that goods or services paid for were received, our finding is presented in the schedule of findings and responses. Also, with respect to allowable expenditures, our finding is presented in the accompanying schedule of findings and responses.

We have included in this report the Drug Asset Forfeiture Annual Report prepared by District 1, which was submitted to the District Attorneys Council.

This report is intended for the information and use of the District Attorney and Beaver, Cimarron, Harper, and Texas County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

August 20, 2010

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2009-2— Property Forfeiture Fund Expenditure Documentation

Criteria: An aspect of effective accounting controls is that expenditures are supported by approved claims, invoices and independent verification that goods or services paid for were received.

Condition: While performing test work on the Property Forfeiture Fund expenditures, the following was noted:

The District Attorney's office in Texas County issued voucher #5952 to L-3 Communications Mobile Vision, Inc. for vehicle equipment of \$2,810. The payment verification form, invoice and receiving report could not be located for this expenditure during the audit. The office later faxed a copy of the invoice to the auditor on June 24, 2010. L-3 Communications faxed a copy of the invoice to the District Attorney's office on June 23, 2010.

Effect: This condition could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends the District Attorney ensure that all expenditures have the original invoice attached to the approved claim, and additional documentation including the payment verification form and receiving report.

Views of responsible officials and planned corrective actions: This finding relates to one voucher issued for the purchase of a video system for an investigator's highway interdiction unit. The payment verification form, invoice, and receiving report could not be located for this expenditure during the audit.

Based upon the recommendations of the audit for the previous audit period, this office has implemented a process that requires all items purchased to be documented with a receiving report that must be submitted with an invoice to the financial secretary for review and initial approval for payment. A payment authorization form is then completed verifying that the invoice is proper to pay. At that point an authorization form along with all related documentation (receiving form and invoice) and a check for payment are submitted to me for final review and approval. Upon my approval the financial secretary issues payment with a check signed by me.

As noted, the invoice for this claim was obtained and provided to you. Payment of this invoice was obviously made with the invoice being present. Payment would not have been made without the invoice and all supporting documentation being prepared and presented to me for approval in accordance with our office policy and procedure for payment of all invoices and claims. It is believed that this invoice was misfiled after payment or perhaps subsequently pulled and then misfiled.

Following the recommendations made in the audits from previous periods, we implemented and have been strictly following procedures with respect to the approval and payment of all invoices that satisfies the recommendations made in this finding. No corrective action is necessary other than to be more careful when filing the paperwork after payment of invoices.

Finding 2009-4-Court Ordered Property

Criteria: Title 63 O.S. § 2-506.K states:

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section.

Title 63 O.S. § 2-506.L.3 states:

The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council.

Further, Internal Revenue Service guidelines as referred to in The General Valuation Rule, dictates the method for determining the Fair Market Value for lodging provided for an employee. This value is the amount an employee would have to pay a third party in an arm's length transaction to rent a home.

Condition: The review of all claims issued from the Supervision Fee Account for the Beaver County Assistant District Attorney, revealed that expenditures for "repairs to forfeiture house" were detailed on the claims for payment. Two claims totaling \$544.86 for plumbing repairs and one claim for water well repair of \$414.00 were noted. It was also noted that there were 10 payments totaling \$2,844.62 for electricity bills paid from the Supervision Fee Account for the "forfeiture house." For fiscal year 2009, expenses paid from the DA Supervision Fee account totaled \$3,803.48.

Upon discussing these claims with the District Attorney, it was determined that the "forfeiture house," as noted on the supervision fee expense claims, was a house that was initially seized in a drug raid and was subsequently forfeited to the District Attorney by court order.

The journal entry of judgment for CV-2004-09 dated October 26, 2004, ordered the owner of the property and house to forfeit it to the State of Oklahoma.

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The journal entry of judgment further directed that, “ The said property shall be sold and the money deposited in the Beaver County District Attorney’s Drug Forfeiture Fund (pursuant to 63 O.S.A section 2-506,) and all costs of the action be paid from the property forfeited.”

We noted that the District Attorney had not sold the house and property, but had allowed an Assistant District Attorney to reside in the home. In further discussion with the District Attorney, we determined that the Assistant District Attorney began residing in this home July 1, 2005.

The District Attorney did not have a formal written agreement with the Assistant District Attorney detailing the responsibilities of each party with regard to the home and property.

The District Attorney did not include the cost associated with the residence as part of the Assistant District Attorney’s compensation on W-2s.

Records of the District Attorney’s accounts did not reflect that the District Attorney received rental payments from the Assistant District Attorney for residing in the home.

Effect: These conditions resulted in expenditures that were not for the enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, tax liabilities to both the employee and employer, and the court ordered judgment to sell the property and house was not followed.

Recommendation: OSAI recommends the District Attorney determine the dollar amount of claims paid for repairs or utilities associated with the previous fiscal years and reimburse the Supervision Fee Account in Beaver County District Attorney’s office for these expenses.

OSAI recommends the District Attorney, as directed in CV-2004-9, immediately sell the property and home forfeited in October 2004.

OSAI recommends that the costs of the unreported fringe benefits be added as compensation through amended W-2s for the previous years or through a payroll adjustment in the current year depending on the final compensation amount calculated.

OSAI recommends that any additional tax liabilities for both the employee and the District be resolved as directed by Internal Revenue Service Guidelines.

Views of responsible officials and planned corrective actions: The conditions identified in this finding with respect to the property forfeited to the District Attorney and the recommendations are being addressed as follows:

The first recommendation is that the dollar amount of claims paid for repairs or utilities from the supervision fee account be determined and reimbursed. It is my understanding that the funds in the supervision fee account are not restricted from general use for any expenses related to the operation of the District Attorney’s Office. Since the payments from this account were to maintain property forfeited to

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the District Attorney, I am not sure why this account would need to be reimbursed, but the total amount of claims paid for repairs and utilities has been determined and will be reimbursed from the forfeiture account to the supervision account.

The second recommendation of selling the house will be satisfied with an auction sale that has been scheduled and which will take place at 11:00 a.m. on December 4, 2010.

The third recommendation regarding fringe benefits being added as compensation to the wages of the employee has been addressed by forwarding all pertinent information and documentation believed to be necessary to the District Attorneys Council. It is understood that the additional benefits related to the use of the property and utilities will be added to the employee's 2010 W-2.

The fourth recommendation regarding tax liabilities for both the employee and the District should be resolved with the issuance of the 2010 W-2 and adjustments or deductions made in the final payroll checks being issued to the employee who is retiring effective December 31, 2010.



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