

STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 11  
PROPERTY FORFEITURE FUND**

For the period July 1, 2007 through June 30, 2009



*Independently serving the citizens of  
Oklahoma by promoting the  
accountability and fiscal integrity of  
governmental funds.*



Oklahoma State  
Auditor & Inspector  
Gary A. Jones, CPA, CFE

**FREDERICK ESSER, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
PROPERTY FORFEITURE FUND  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by 74 O.S. § 212.E and 63 O.S. § 2-506 has not been printed, but is available on the agency's website ([www.sai.ok.gov](http://www.sai.ok.gov)) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Collection, pursuant to 74 O.S. § 3105.B.



# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

June 2, 2011

Frederick Esser, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

Transmitted herewith is the statutory report for the District Attorney of District 11, Nowata and Washington Counties, Oklahoma (the District) for the period July 1, 2007 through 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, appearing to read "Gary A. Jones".

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

**FREDERICK ESSER, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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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.



# Oklahoma State Auditor & Inspector

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## Statutory Report

Frederick Esser, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

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 period July 1, 2007 through June 30, 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.
- 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 and the District Attorneys Council 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 Nowata or Washington County.

Based on our procedures performed, with respect to items tested, District 11 expenditures were supported by approved claims, invoices, and independent verification that goods or services paid for were received; the District Attorney prepared and submitted an annual report to the District Attorneys Council; and the District Attorney reconciled the balance of the Property Forfeiture Fund with the County Treasurer's records monthly. With respect to whether the District Attorney maintains a true and accurate inventory of all property seized; propriety of receipts; and 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, our findings are presented in the accompanying schedule of findings and

responses. In performing our procedures, we noted a matter of segregation of duties, and our finding is presented in the accompanying schedule of findings and responses.

We have included in this report the Drug Asset Forfeiture Annual Reports prepared by District 11, which were submitted to the District Attorneys Council.

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

Sincerely,

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

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

January 21, 2011

**FREDERICK ESSER, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2008/2009-1 – Segregation of Duties (Nowata and Washington Counties)**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, key duties and responsibilities should be segregated among different individuals to reduce the risk of error or fraud. No one individual should have the ability to authorize transactions, have physical custody of assets, and record transactions.

Condition: A lack of segregation of duties exists, during the period of July 1, 2007 through June 30, 2009, because one employee receipts funds, prepares deposits and delivers deposits to the Treasurer's office.

Effect: A single person having responsibility for more than one area of recording, authorization, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner.

Recommendation: OSAI recommends management be aware of these conditions and realize that concentration of duties and responsibilities in a limited number of individuals is not desired from a control point of view. The most effective controls lie in management's overseeing of office operations and a periodic review of operations. In the event that segregation of duties is not possible due to limited personnel, OSAI recommends implementing compensating controls to mitigate the risks involved with a concentration of duties. Compensating controls would include separating key processes and/or critical functions of the office, and having management review and approval of accounting functions.

Views of responsible officials and planned corrective actions: Segregation of duties is not possible due to limited personnel; however, compensating controls will be implemented.

**Finding 2008- 2 – Receipts**

Criteria: Title 19 O.S. § 215.10 states in part:

It shall be the duty of the district attorney, whenever he shall receive any monies for fines, recognizances, penalties or costs, to deliver to the officer or person paying the same, duplicate receipts, one of which shall be filed by such officer or person in the office of the county treasurer of the county for which said business was transacted.

Condition: Four out of the five days selected, the District Attorney's office did not issue receipts for all funds paid to their office during the period of July 1, 2007 through June 30, 2008.

Effect: This condition increases the risk of unrecorded transactions, undetected errors, and misappropriation of funds.



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Recommendation: OSAI recommends the District Attorney's office issue duplicate, pre-numbered receipts for all monies received.

Views of responsible officials and planned corrective actions: This will be corrected.

**Finding 2008/2009- 3 – Inventory**

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

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 provision of this section.

Condition: During the period of July 1, 2007 through June 30, 2009, the District Attorney's office did not maintain an inventory of seized items.

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

Recommendation: OSAI recommends management maintain a true and accurate inventory of seized items.

Views of responsible officials and planned corrective actions: The District Attorney's office does maintain a detailed inventory of seized items but the auditor never requested they be produced.

OSAI Response: The auditor requested an inventory of seized items. The District Attorney's office provided a "status report" that did not list all seized items. The District Attorney's office stated that each case file would have to be pulled to determine an inventory of seized items. We found inaccuracies upon our review of the "status report."

**Finding 2008/2009- 4 – Yearly Account to the Board of County Commissioners**

Criteria: Title 63 O.S. § 2-506 L. states in part:

The proceeds of the sale of any property not taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be distributed as follows, in the order indicated...

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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 attorney's council...

Condition: During the period of July 1, 2007 through June 30, 2009, the District Attorney's office did not make a yearly accounting to the Board of County Commissioners of the property forfeiture revolving fund.

Effect: This condition could result in a violation of state statutes.

Recommendation: OSAI recommends the District Attorney's office follow state statutes regarding the yearly accounting to the Board of County Commissioners.

Views of responsible officials and planned corrective actions: Monthly reports are provided and approved by the County Commissioners for this and other accounts, based upon information provided by the County Treasurer's office.

OSAI Response: The District Attorney's office does submit a monthly report. However, they did not prepare a yearly accounting pursuant to 63 O.S. § 2-506.L.

**FY08 DRUG ASSET FORFEITURE ANNUAL REPORT**

July 1, 2007 - June 30, 2008

District 11

BEGINNING CASH BALANCE ON JULY 1

\$7,456.53

**INCOME**

Cash Forfeited

Court Ordered Assessments

\$215.00

Value Non-Cash Assets Forfeited and Sold

Other (please explain)

TOTAL INCOME (before distributions)

\$ 215.00

**DISTRIBUTION TO OTHER AGENCIES**

Cash Returned to Other Agencies

Equipment Purchased for Other Agencies

Other (please explain)

TOTAL DISTRIBUTIONS

\$ -0-

**EXPENDITURES BY DISTRICT ATTORNEY**

Personnel and Benefits

Confidential Informants

Cost of Prosecution/Investigation

Education/Prevention

Equipment

Operating Expense

Rent

Storage & Towing

Travel

Other

TOTAL EXPENDITURES

\$ -0-

ENDING CASH BALANCE ON JUNE 30

(July 1 Balance + Income - Distributions - Expenditures = June 30 Balance)

\$ 7,671.53

Prepared by: Shelli LeDebo

Date: 07-02-08

Phone#: 918-273-3167

**RECEIVED**

JUL 08 2008

DISTRICT ATTORNEYS  
COUNCIL

**FY08 DRUG ASSET FORFEITURE ANNUAL REPORT**

July 1, 2007 - June 30, 2008

District 11

BEGINNING CASH BALANCE ON JULY 1

190,622.54

**INCOME**

Cash Forfeited 0  
 Court Ordered Assessments 0  
 Value Non-Cash Assets Forfeited and Sold 0  
 Other (please explain) 0

TOTAL INCOME (before distributions)

\$190,622.54

**DISTRIBUTION TO OTHER AGENCIES**

Cash Returned to Other Agencies 32,019.94  
 Equipment Purchased for Other Agencies 0  
 Other (please explain) 0

TOTAL DISTRIBUTIONS

\$32,019.94

**EXPENDITURES BY DISTRICT ATTORNEY**

Personnel and Benefits 0  
 Confidential Informants 12,000.00  
 Cost of Prosecution/Investigation 57,206.56  
 Education/Prevention 1,944.12  
 Equipment 47,323.50  
 Operating Expense 1,979.20  
 Rent \_\_\_\_\_  
 Storage & Towing 6,675.00  
 Travel \_\_\_\_\_  
 Other parking 1,260.00

TOTAL EXPENDITURES

\$128,358.41

ENDING CASH BALANCE ON JUNE 30

\$ 30,214.19

(July 1 Balance + Income - Distributions - Expenditures = June 30 Balance)

Prepared by: Dequedones  
 Phone#: 918 337-2823

Date: 7/1/08

FY09 DRUG ASSET FORFEITURE ANNUAL REPORT

July 1, 2008 - June 30, 2009

District 11

BEGINNING CASH BALANCE ON JULY 1, 2008

\$7,671.53

INCOME

Cash Forfeited \$4,187.88

Court Ordered Assessments \_\_\_\_\_

Value Non-Cash Assets Forfeited and Sold \_\_\_\_\_

Other (please explain) \_\_\_\_\_

TOTAL INCOME (before distributions)

\$4,187.88

DISTRIBUTION TO OTHER AGENCIES

Cash Returned to Other Agencies \_\_\_\_\_

Equipment Purchased for Other Agencies \_\_\_\_\_

Other (please explain) \_\_\_\_\_

TOTAL DISTRIBUTIONS

\$ \_\_\_\_\_

EXPENDITURES BY DISTRICT ATTORNEY

Personnel and Benefits \_\_\_\_\_

Confidential Informants \_\_\_\_\_

Cost of Prosecution/Investigation \_\_\_\_\_

Education/Prevention \_\_\_\_\_

Equipment \_\_\_\_\_

Operating Expense \_\_\_\_\_

Rent \_\_\_\_\_

Storage & Towing \_\_\_\_\_

Travel \_\_\_\_\_

Other \_\_\_\_\_

TOTAL EXPENDITURES

\$ 0.

ENDING CASH BALANCE ON JUNE 30, 2009

(July 1 Balance + Income - Distributions - Expenditures = June 30 Balance)

\$11,859.41

Prepared by: Shelli Webb

Date: 07-07-09

Phone#: 918-273-3167

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JUL 09 2009

DISTRICT ATTORNE  
COUNCIL

*[Handwritten signature]*

**FY09 DRUG ASSET FORFEITURE ANNUAL REPORT**

July 1, 2008 - June 30, 2009

District 11

BEGINNING CASH BALANCE ON JULY 1, 2008

30,214.19

**INCOME**

Cash Forfeited	<u>26,688.64</u>
Court Ordered Assessments	<u>0</u>
Value Non-Cash Assets Forfeited and Sold	<u>0</u>
Other (please explain) <i>from court award</i>	<u>32,185.89</u>

TOTAL INCOME (before distributions)

\$ 89,088.72

**DISTRIBUTION TO OTHER AGENCIES**

Cash Returned to Other Agencies	<u>2,597.42</u>
Equipment Purchased for Other Agencies	<u>          </u>
Other (please explain)	<u>          </u>

TOTAL DISTRIBUTIONS

\$ 2,597.42

**EXPENDITURES BY DISTRICT ATTORNEY**

Personnel and Benefits	<u>          </u>
Confidential Informants	<u>          </u>
Cost of Prosecution/Investigation	<u>          </u>
Education/Prevention	<u>          </u>
Equipment	<u>92.25</u>
Operating Expense	<u>          </u>
Rent	<u>          </u>
Storage & Towing	<u>          </u>
Travel	<u>          </u>
Other	<u>2,000.00</u>
	<u>289.00</u>

TOTAL EXPENDITURES

\$ 2381.25

ENDING CASH BALANCE ON JUNE 30, 2009

\$ 84,110.05

(July 1 Balance + Income - Distributions - Expenditures = June 30 Balance)

Prepared by: Jacqueline Jones  
Phone#: 918 337-2824

Date: 3/15/10



OFFICE OF THE STATE AUDITOR AND INSPECTOR

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