

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 21
PROPERTY FORFEITURE FUND**

For the period July 1, 2008 through June 30, 2010



*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

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT 21
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE PERIOD JULY 1, 2008 THROUGH JUNE 30, 2010**

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) 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

October 13, 2011

Greg Mashburn, District Attorney
District 21
Cleveland County Courthouse
Norman, Oklahoma 73069

Transmitted herewith is the statutory report for the District Attorney of District 21, Cleveland, Garvin, and McClain Counties Oklahoma (the District) for the period July 1, 2008 through June 30, 2010.

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.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

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

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

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

**GREG MASHBURN, DISTRICT ATTORNEY
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**GREG MASHBURN, DISTRICT ATTORNEY
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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 substance 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

Greg Mashburn, District Attorney
District 21
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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, 2008 through June 30, 2010:

- Examine a group of receipts and deposit slips for propriety.
- Determine that the District Attorney maintains a true and accurate inventory of all property seized in accordance with 63 O.S. §§ 2-506.K and 2-508.C.
- 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 orders pursuant to 63 O.S. §§ 2-506.K and 2-508.
- Test expenditures to determine they are supported by approved claims, invoices, and independent verification that goods or services paid for were received.
- Determine if 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 if the District Attorney reconciles the balance with the County Treasurer.

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 financial statements of the County.

Based on our procedures performed, we have presented our findings in the accompanying schedule.

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

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

May 19, 2011

**GREG MASHBURN, DISTRICT ATTORNEY
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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2009/2010-1 – Segregation of Duties

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, the duties of receiving, receipting, recording, depositing cash and checks, reconciliations, and transaction authorization should be segregated.

Condition: It was noted that asset custody, transaction authorization, bookkeeping, and reconciliations were not properly segregated to ensure adequate internal control structure.

- The Cleveland County Property Forfeiture coordinator is the only employee who receipts money received from seizing agencies, prepares deposits, and makes deposit with the Treasurer.
- The Garvin County Property Forfeiture secretary is the only employee who receipts money received from seizing agencies, prepares deposits, makes deposit with the Treasurer, and reconciles the account with the Treasurer.
- The McClain County Property Forfeiture coordinator is the only employee who receipts money received from seizing agencies, prepares deposits, makes deposit with the Treasurer, and reconciles the account with the Treasurer.

It was noted that asset custody, transaction authorization, bookkeeping, and reconciliations were not properly segregated to ensure adequate internal control structure.

- The Cleveland Finance director prepares claims and vouchers, requisitions, receives goods and services, mails vouchers, and reconciles the account with the Treasurer.
- The Garvin secretary prepares claims and vouchers, requisitions, receives goods and services, signs vouchers, mails vouchers, and reconciles the account with the Treasurer.
- The McClain Property Forfeiture coordinator (and former Property Forfeiture coordinator) prepares claims and vouchers, requisitions, receives goods and services, signs vouchers, mails vouchers, and reconciles the account with the Treasurer.

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

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Recommendation: OSAI recommends that management be aware of this condition 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 knowledge of office operations and a periodic review of operations.

Views of responsible officials and planned corrective actions: We recognize the risk associated with the concentration of duties and review the accounts on a monthly basis. However, due to budget constraints and limited resources we do not currently have the manpower to further separate these duties.

Finding 2009/2010-2 – Expenditures

Criteria: Effective internal controls are necessary to ensure stewardship and accountability of public funds. This includes ensuring all expenditures of the Property Forfeiture Fund are supported by approved claims and supporting documentation such as an original invoice.

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

FYE 6/30/2009

- Of the nine expenditures tested in Garvin County, one did not have approval for payment of invoice and one did not have a claim.
- Of the three expenditures tested in McClain County, two expenditures did not have a claim and one claim amount (\$280.00) did not agree to the voucher amount (\$520.00).

FYE 6/30/2010

- Of the twenty-five expenditures tested in Cleveland County, one did not have a properly approved claim and one did not have an invoice.
- Of the four expenditures tested in Garvin County, two did not have supporting documentation and one did not have approval for the purchase or approval for payment of invoice.
- Of the fourteen expenditures tested in McClain County, one did not have a claim, seven did not have approval for payment of the invoice, and two did not have approval for purchase.

Effect: This condition could result in misappropriation or inappropriate expenditures of the fund.

Recommendation: OSAI recommends that expenditures be approved by the District Attorney or an authorized employee of the District Attorney's office.

Views of responsible officials and planned corrective actions: We have addressed this issue. All future forfeiture expenditures will be approved by the District Attorney or an authorized employee of the District Attorney's Office.

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Finding 2009/2010-3 – Annual Report

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

L. 3. 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; provided, one hundred percent (100%) of the balance of the proceeds of such sale of property forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. The revolving fund shall be audited by the State Auditor and Inspector at least every two (2) years in the manner provided in Section 171 of Title 19 of the Oklahoma Statutes. Said audit shall include, but not be limited to, a compliance audit. A district attorney may enter into agreements with municipal, tribal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section. The District Attorneys Council shall adopt guidelines which ensure that such agencies receive a reasonable percentage of such proceeds, considering the relative contribution of each agency to the drug enforcement and prosecution operations relating to the seizure. In formulating said guidelines, the District Attorneys Council shall examine federal guidelines on asset distribution and use said guidelines as a basis for establishing guidelines for this state. The Attorney General is hereby authorized to mediate disputes between district attorneys and such agencies concerning the application of said guidelines in particular instances. Any agency that receives proceeds from an asset distribution shall maintain a true and accurate record of all such assets.

Condition: The District Attorney's office for Cleveland, Garvin, and McClain Counties are not presenting the Property Forfeiture Annual reports to the Board of County Commissioners.

Effect: The District Attorney's office is not in noncompliance with state statutes.

Recommendation: OSAI recommends that the District Attorney present the Property Forfeiture Annual Report to the Board of County Commissioners.

Views of responsible officials and planned corrective actions: We have addressed this issue. In the future District 21 will present the Property Forfeiture Annual Report to the Board of County Commissioners. A copy of the annual report signed by all three commissioners will be kept on file.

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Finding 2009/2010-4 – Property Release Forms

Criteria: Effective internal controls are necessary to ensure stewardship and accountability of assets. Effective accounting procedures include documenting maintaining property release forms when seized property is returned to the defendant.

Condition: The following exceptions were noted:

Cleveland, McClain, and Garvin FYE 6/30/2009

- The District Attorney's office does not keep documentation from the seizing agency when seized property is returned to the defendant.

Cleveland FYE 6/30/2010

- The District Attorney's office does not keep documentation from the seizing agency when seized property is returned to the defendant.
- A tow company sold a forfeited vehicle to pay for company's tow/storage fees. The court did not give an order that allowed this sale to happen.

McClain FYE 6/30/2010

- The District Attorney's office does not keep documentation from the seizing agency when seized property is returned to the defendant.
- One seized item was returned to the rightful owner, but the property release was not signed by the owner.

Garvin FYE 6/30/2010

- Two forfeited items were traded for ammo, but supporting documentation could not be located.

Effect: This condition could result in inaccurate records and incomplete files.

Recommendation: OSAI recommends that the District Attorney maintain documents of the return of seized property to the rightful owner.

Views of responsible officials and planned corrective actions: We have addressed this issue. We are currently tracking money returned to defendant(s) and documenting this information.

Finding 2009/2010-5 – Inventory Records

Criteria: Title 63 O.S. § 2-506 K:

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

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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.

Condition: While reviewing property forfeitures to the District Attorney's office, the following was noted:

- The McClain County District Attorney's office did not have an inventory list documenting all items seized.
- The Cleveland County District Attorney's office does keep an inventory list of forfeited items, but does not have an inventory list documenting all items seized.
- Agencies within District 21 appear to have maintained custody of seized property until a court order was received. Property should have been kept at the District Attorney's office in the county the property was seized.

Effect: The District Attorney's office is not in compliance with state statutes.

Recommendation: OSAI recommends that the District Attorney maintain a true and accurate list of all items seized. Furthermore, OSAI recommends that all seized inventory be kept in a secure location, in the office of the District Attorney, in the county the property was seized.

Views of responsible officials and planned corrective actions: We have addressed this issue. All three (3) counties within District 21 are currently keeping an accurate inventory of all forfeited items.



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