

STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 22  
PROPERTY FORFEITURE PROGRAM**

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

**CHRIS ROSS, DISTRICT ATTORNEY  
DISTRICT 22  
STATUTORY REPORT  
PROPERTY FORFEITURE PROGRAM  
FOR THE PERIOD OF JULY 1, 2008 THROUGH JUNE 20, 2010**

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# Oklahoma State Auditor & Inspector

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

March 5, 2012

Chris Ross, District Attorney  
District 22  
Pontotoc County Courthouse  
Ada, Oklahoma 74821

Transmitted herewith is the statutory report for the District Attorney of District 22, Pontotoc, Seminole, and Hughes Counties, Oklahoma (the District) for the period of 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, reading "Gary A. Jones".

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

**CHRIS ROSS, DISTRICT ATTORNEY  
DISTRICT 22  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2008 THROUGH JUNE 30, 2010**

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DISTRICT 22  
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**INTRODUCTORY INFORMATION**

Most district attorneys in the state have a Property Forfeiture Program. 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

Chris Ross, District Attorney  
District 22  
Pontotoc County Courthouse  
Ada, Oklahoma 74821

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 Program for the period of 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.
- 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.

A handwritten signature in blue ink, appearing to read "Gary A. Jones".

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

March 24, 2011

**CHRIS ROSS, DISTRICT ATTORNEY  
DISTRICT 22  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2008 THROUGH JUNE 30, 2010**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 1 – Segregation of Duties – Property Forfeiture Program**

Criteria: Demonstration of accountability and stewardship are goals used in evaluating management's accounting for funds. A basic component of adequate internal controls is the segregation of duties so that one individual cannot perpetuate and conceal errors and irregularities in the normal course of his/her duties. To help ensure a proper accounting of funds and strong internal controls, the duties of receiving, receipting, recording, and depositing cash and checks should be separated among employees.

Condition: The District Attorney's office has a collections department for the Property Forfeiture Program located in the counties of Pontotoc, Seminole, and Hughes Counties. Based on inquiries, we noted instances in which a single employee is responsible for the recording, authorization, custody, and execution of expenditure transactions. The following are concerns that were noted:

Pontotoc County:

- One employee is authorizing purchases, preparing claims with supporting documentation, certifying the receipt of goods and services, approving claims for payment, preparing vouchers, distributing vouchers, and maintaining the account ledger.

Seminole County:

- One employee is authorizing purchases, preparing claims with supporting documentation, certifying the receipt of goods and services, approving claims for payment, preparing vouchers, distributing vouchers, and maintaining account ledgers.

Hughes County:

- One employee authorizes requisitions, purchases, and approves claims for payment.

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. OSAI recommends management provide segregation of duties so that no one employee is able to perform all accounting functions. 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

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separating key processes and/or critical functions of the office, and having management review and approval of accounting functions.

Management Response: Regarding the lack of segregation of other duties, the District Attorney is not funded sufficiently to hire the multiple employees it would take to segregate these duties. For example, in Hughes County, from 1983 to 2011, there was only one staff employee. Therefore, that employee was required to do all functions. Since the offices are not funded to allow for segregation of all duties, and if someone is going to steal, they are going to steal regardless, the District Attorney has adopted policies which create a paper trail. It is hopeful these policies will deter theft. However, if they do not, they do serve to establish a paper trail from which the identity of the thief should be determinable.

Policies do exist that require monthly review of the withdrawal of Drug Task Force funds. The policies requiring signatures to verify the amounts submitted by outside agencies are directed towards deterring theft.

**Finding 2 – Property Forfeiture Inventory**

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.

Condition: The Pontotoc, Seminole, and Hughes County District Attorney’s offices do not have an inventory list documenting all items seized and their disposition.

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.

Management Response: The District Attorney does not agree with this interpretation of 63 O.S § 2-506 K. The interpretation given by the State Auditor would require the District Attorney to keep an inventory on all controlled dangerous substances seized within the district, as well as of all raw materials, products, and equipment seized within the district, all property which is used or intended to be used as a container for the same, all conveyances, all books, records, and research including formulas, microfilm, tapes, and data used in a violation, all things of value furnished or intended to be furnished, all monies, coin, and currency found in close proximity to forfeitable substances, all real property seized, and all weapons possessed, used, or available for a violation, if the same was seized within the District by any agency other than a few state agencies.



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This interpretation is problematic. The large majority of these items are never in the physical possession of the District Attorney. Instead, they are held by the various agencies for use as evidence. Additionally, it would be impossible to distinguish, for example, between one glass beaker and another, one baggie of marijuana and another, etc. This problem is aggravated by the fact that many of these items will be sent to the OSBI for testing. The District Attorney challenges the State Auditor to find one District Attorney in the entire State who has an inventory that shows every bag of marijuana, every crack pipe, and every joint seized within that district. This would be required to meet the auditor's interpretation of the statute. This interpretation is further flawed if one considers the Districts that have large municipal courts. These courts handle misdemeanor drug offenses. If this statute is given the interpretation which the State Auditor has given it, then the District Attorney in those districts would be required to maintain an inventory on items that would never reach his office for prosecution as they would be used in municipal court, a separate and distinct court system. This begs the question of how the District Attorney would even know these items had been seized. Clearly this interpretation is a practical impossibility.

Additionally, the funding of the District Attorney does not allow for the hiring of enough people to inventory, document, and track, every baggie of marijuana, glass beaker, roach, bong, alligator clip, pipe, rolling paper, and "pinch hitter" seized by any law enforcement agency in the District. It is the opinion of the District Attorney that this is an impossible task, given the limits of manpower and the abundance of drug cases in every district.

Personal property seized for forfeiture, such as vehicles and weapons, do not come into the physical possession of the District Attorney until after being forfeited and ready for sale. The District Attorney's offices do not have secure evidence rooms, and the District Attorney's offices do not take physical custody of non-monetary evidence.

The District Attorney's office does document the receipt of cash that is received for forfeiture from outside agencies. This cash is received prior to the filing of forfeiture due to previous criticisms by the State Auditor and Inspector reports. Based on that criticism, policy was written that required the receipt of cash from an agency prior to the filing of a forfeiture action. Any cash delivered to this office must, by policy, be deposited that day.

The District Attorney's office does document all items for which forfeiture is requested and approved. The District Attorney believes this is a more practical interpretation of the statute.

Auditor Response: The District Attorney response is that it is impossible for his office to maintain an accurate inventory of all properties seized in accordance with 63 O.S. § 2-506 K. Therefore, based on the District Attorney's response, he does not maintain an inventory of items seized, including any controlled dangerous substances, guns, vehicles, etc. Due to the lack of accurate list of property seized, the District Attorney could not determine if property seized was returned to the rightful owner if no case is filed or processed through the court system for forfeiture. In addition, the noncompliance with state statutes for inventory of property seized could also result in the loss of revenue for the District. This approach does not appear to comply with state law and safeguard any assets held in trust by the District.

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**Finding 3 – Internal Control Environment Regarding Expenditures, Account Balances, and Reporting**

Criteria: Effective internal controls are essential to provide reasonable assurance about the achievement of the entity’s objectives with regard to reliability of financial reporting, and compliance with applicable laws and regulations. An effective internal control system has in place policies and procedures that reduce the risk of errors and fraud within an organization. To help ensure proper accounting of funds, the office should maintain records that accurately reflect financial transactions.

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney does not have written policies and procedures and/or has not designed and implemented internal controls for the safeguarding and reporting of program funds. As a result, deficiencies were noted in several areas which include the following:

Pontotoc County:

- Of the 10 property forfeiture expenditure claims tested, we noted that 1 claim was not supported by an invoice.
- Of the 5 property forfeiture case files tested, 1 case file did not contain documentation showing the seized property was returned to the defendant.

Seminole County:

- Of the 10 property forfeiture expenditure claims tested, we noted that 4 claims were not supported by an invoice.

Hughes County:

- Of the 4 case files selected, 2 case files could not be located.
- Of the 4 case files selected, 2 case files did not contain documentation showing the seized property was returned to the defendant.

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

Recommendation: We recommend management identify, analyze, and manage risks. The District Attorney should implement policies and procedures to help ensure necessary actions are taken to address the potential risks involved in accomplishing the department’s objectives. Management should also assess the quality and effectiveness of the organization’s internal control process over time and implement appropriate controls and oversight of each program’s daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department’s assets.

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Management Response: The District Attorney will establish policy that requires the documentation of any expenditure. The current policy does require approval of any expenditure prior to making the same. Employees have been reminded to follow these provisions and to submit receipts to the Finance Officer. The District Attorney has spoken with a representative of the State Auditor and requested suggestions for policy concerning expenditures.

In regard to the return of property, the District Attorney discussed this matter with the Assistant District Attorney who handles forfeitures in Pontotoc County. This Assistant advises that any property returned is documented in court in the criminal proceeding. The Assistant was told to make sure the return was documented in the forfeiture file.

The Assistant District Attorney in Hughes County at the time of these cases is now retired. The District Attorney has discussed with the new Assistant District Attorney the need to document the return of any property.

The Assistant District Attorneys in Seminole County were reminded that the return of any property should be documented in the forfeiture file.



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