

**DISTRICT ATTORNEY  
DISTRICT 23**

**PROPERTY  
FORFEITURE FUND**

**FOR THE YEAR ENDED  
JUNE 30, 2008**

**STATUTORY  
REPORT**



Oklahoma State Auditor  
& Inspector

**RICHARD SMOTHERMON, DISTRICT ATTORNEY  
DISTRICT 23  
STATUTORY REPORT  
PROPERTY FORFEITURE FUND  
FOR THE YEAR ENDED JUNE 30, 2008**

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# STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA  
State Auditor

MICHELLE R. DAY, ESQ.  
Chief Deputy



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July 20, 2010

Richard Smothermon, District Attorney  
District 23  
Pottawatomie County Courthouse  
Shawnee, Oklahoma 74801

Transmitted herewith is the statutory report for the District Attorney of District 23, Lincoln and Pottawatomie Counties, Oklahoma (the District) for the fiscal year ended June 30, 2008. 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

Richard Smothermon, District Attorney  
District 23  
Pottawatomie County Courthouse  
Shawnee, Oklahoma 74801

For the purpose of complying with 74 O.S. §212 (E) and 63 O.S. §2-506, we have performed each of the following procedures as they relate to the records of the Property Forfeiture Fund for the fiscal year 2008:

- 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 Lincoln or Pottawatomie County.

Based on our procedures performed, it appears that the District maintains a true and accurate inventory of all property seized; was 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; expenditures appeared to be 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 Board of County Commissioners; and the District Attorney reconciled the balance of the Property Forfeiture Fund with the County Treasurer's records monthly. However, in performing the procedures, we noted a lack of segregation of duties over revenue and expenditure transactions, and the finding is presented in the accompanying schedule of findings and responses.

We have included in this report information from the Property Forfeiture Fund Annual Report prepared by District 23, which was submitted to the District Attorneys Council.

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

Sincerely,



STEVE BURRAGE, CPA  
STATE AUDITOR & INSPECTOR

June 14, 2010

**RICHARD SMOTHERMON, DISTRICT ATTORNEY  
DISTRICT 23  
STATUTORY REPORT  
JUNE 30, 2008**

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**PROPERTY FORFEITURE FUND**

**BEGINNING CASH BALANCE ON JULY 1, 2007** \$105,042

**INCOME**

Cash forfeited	14,773
Court ordered assessments	1,950
Other	<u>160</u>

**TOTAL INCOME (before distributions)** 16,883

**DISTRIBUTION TO OTHER AGENCIES**

Cash returned to other agencies	2,158
Equipment purchased for other agencies	670
Other	<u>5,322</u>

**TOTAL DISTRIBUTIONS** 8,150

**EXPENDITURES BY DISTRICT ATTORNEY**

Personnel and benefits	61,412
Cost of prosecution/investigation	415
Education/prevention	300
Equipment-furniture-software	1,732
Operating expense	10,894
Rent	84
Other:	
Publication Fees	61
Transcripts	648
State Auditor & Inspector (Audits)	<u>2,458</u>

**TOTAL EXPENDITURES** 78,004

**ENDING CASH BALANCE ON JUNE 30, 2008** \$ 35,771

*Source: District 23 Property Forfeiture Fund Annual Report (for informational purposes only)*



**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2008-1—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, 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: Based on inquiries and observation of personnel in the District Attorney's Property Forfeiture Program, we noted instances in which a single employee could be responsible for the recording, authorization, custody, and execution of revenue transactions. The following are concerns we noted:

Lincoln County

- The Property Forfeiture secretary receives money, writes receipts, balances the cash drawer to daily receipts, prepares official depository tickets, reconciles receipts to deposits, takes deposits to the Treasurer, posts daily receipts to the cash book, and reconciles account balance to the Treasurer.

Pottawatomie County

- The Finance Officer receives money, writes receipts, reconciles receipts to the official depository ticket, takes deposits to the Treasurer, posts receipts to the cash book, and reconciles account balance to the Treasurer.

We also noted instances in which a single employee could be responsible for the recording, authorization, custody, and execution of expenditure transactions:

Lincoln County

- The Property Forfeiture secretary certifies and prepares claims with supporting documentation, certifies receipt of goods or services, prepares vouchers, signs vouchers, and mails/distributes vouchers.

Pottawatomie County

- The Finance Officer certifies and prepares claims with supporting documentation, certifies receipt of goods or services, and mails/distributes vouchers.

Effect: By having a single person who has the opportunity to perform more than one area of recording, authorizing, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

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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 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: We are aware of the possible lack of segregation of duties. We realize that concentration of duties and responsibilities in a limited number of individuals is not the best situation from a control point of view; however, due to budget shortfall we have been forced to operate with fewer employees. The accounting functions of the District Attorney's Revolving Forfeiture Fund have not changed during my administration or previous administrations; however, the District is open for suggestions on how to segregate some of the accounting functions with the number of employees assigned to the District Attorney's Revolving Forfeiture Fund. The District Attorney will continue to review, approve and oversee all accounts.



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