

**DISTRICT
ATTORNEY'S OFFICE,
DISTRICT NO. 8**

**KAY COUNTY,
OKLAHOMA**

**JANUARY 1, 2005 THROUGH
OCTOBER 31, 2008**



**SPECIAL
AUDIT**



Oklahoma State Auditor
& Inspector

DISTRICT ATTORNEY'S OFFICE, DISTRICT NO. 8

KAY COUNTY, OKLAHOMA

SPECIAL AUDIT REPORT

JANUARY 1, 2005 THROUGH OCTOBER 31, 2008

STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-3426 www.sai.ok.gov

October 14, 2010

Honorable Drew Edmondson
Attorney General
State of Oklahoma
313 NE 21st Street
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the Kay County District Attorney's Office, District No. 8. We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 18f**.

A report of this type tends to be critical in nature; however, failure to report commendable features in the present accounting and operating procedures of the entity should not be interpreted to mean they do not exist.

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

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

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

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

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DISTRICT ATTORNEY'S OFFICE, DISTRICT NO. 8
KAY COUNTY
SPECIAL AUDIT REPORT
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Mark GibsonDistrict Attorney

STATE AUDITOR AND INSPECTOR

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State Auditor

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Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-3426 www.sai.ok.gov

Honorable Mark Gibson
District Attorney, District No. 8
201 S. Main
Newkirk, Oklahoma 74647

Dear Mr. Gibson:

Pursuant to the Attorney General's request and in accordance with the requirements of **74 O.S. 2001, § 18f**, we performed a special audit with respect to the Kay County District Attorney's Office, District No. 8 for the period January 1, 2005 through October 31, 2008.

The objectives of our special audit primarily included, but were not limited to, the objectives expressed in the Attorney General's request for this audit. Our findings related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Kay County District Attorney's Office, District No. 8. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Kay County District Attorney's Office, District No. 8

This report is intended solely for the information and use of the Attorney General and the Kay County District Attorney's Office, District No. 8 and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**; and shall be open to any person for inspection and copying.

Sincerely,

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

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

October 14, 2010

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INTRODUCTION

OSAI reviewed 100% (149) of the notices of intent to forfeit (seized items — cash, vehicles, firearms, etc.) filed with the Kay County District Court from January 1, 2005 through October 31, 2008. OSAI verified the amount of seized cash, determined if the seized cash was entered on the safe log, determined if the notice to forfeit the seized cash was consistent with the amount seized, and determined the status of the seized cash. If there was a disposition in the case, OSAI determined if the cash was handled pursuant to the Court's order: deposited with the treasurer, returned to the defendant, or returned to the law enforcement agency. OSAI interviewed the District Attorney, former and current employees of the Office, defense attorneys, a deputy court clerk, a deputy sheriff, and a defendant.

In addition to testing forfeiture cases filed during the audit period, OSAI expanded testing to include seized cash that was reported missing from the District Attorney's Office safe. One of the reported missing envelopes contained cash seized in 1995. OSAI followed the same procedures for testing all cases.

BACKGROUND

Law enforcement officers turned seized cash (potential forfeiture cases) into the Kay County District Attorney's Office. District Attorney employee Loree Bechtold's job duties included work on forfeiture cases. As part of her duties regarding seized cash, she receipted the seized cash from law enforcement officers, verified the amount of the cash, placed the cash into a sealed envelope, assigned a safe log number to track the cash, entered the safe log number on a spreadsheet, delivered the cash to either District Attorney Mark Gibson or the 1st Assistant District Attorney Will Clark, inventoried the cash, and verified the cash in the safe to the safe log. The cash was then given to the District Attorney or the 1st Assistant District Attorney because they were the only persons who had the safe combination. The cash was supposed to be stored in the safe until it was either returned to the defendant or returned to the defendant's attorney or a notice of forfeiture and a disposition (order forfeiting or returning the cash, seized items, etc.) was filed in the case.

Seized cash was logged and held in the District Attorney's Office safe or it was logged and/or deposited into a District Attorney's depository account with the county treasurer. Cash seized prior to 2007 remained in the safe until an order of forfeiture was filed. Subsequent to the Order, the cash was supposed to be removed from the safe and deposited with the county treasurer. In January 2007, the District Attorney's Office opened a "holding account" for cash seized from drug-related cases. Cash seized on drug-related forfeitures could be deposited into this account after the District Attorney's Office filed a notice of intent to forfeit. If seized cash was deposited into this account, the cash was held in the account until an Order was filed in the case. If the cash was not deposited into this account, the cash was supposed to remain in the safe until an Order (disposition) was filed in the case.

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Former 1st Assistant District Attorney Will Clark's duties included, but were not limited to, prosecuting drug cases and property forfeiture cases. As part of his duties regarding forfeitures, he was responsible for determining which cases to forfeit or return seized cash. He directed the support staff to file the notices to defendants of the State's intent to forfeit the cash. He requested forfeiture cases be set for hearing. He requested continuances on cases set for hearing, and he directed the support staff to prepare the orders of forfeiture that determined the disposition of the seized cash and other seized property. By determining when the Orders of forfeiture were filed, he controlled when cash would need to be retrieved from the District Attorney's safe for deposit or return.

OBJECTIVE

Verify forfeitures and dispositions and trace disposition of seized funds entered on District Attorney's log.

FINDING

\$40,109 cash is missing from the District Attorney's Office safe.

November 27, 2007 - District Attorney employee verified the safe contents which included case CS-06-70 for \$2,720. All cash was accounted for.

On November 27, 2007, Loree Bechtold verified the safe contents. She compared her safe log entries to the cash envelopes and accounted for all the cash. On November 29, 2007, Ms. Bechtold provided 1st Assistant District Attorney Will Clark with a copy of the safe log. The safe log included but was not limited to the: safe log number, defendant's name (if available), amount of cash seized, forfeiture case number (if applicable), and the status of the cash held in the safe. The list included cash that had been seized and held in the safe since 1995. According to Ms. Bechtold, she and Mr. Clark discussed the older cases where seized cash was still stored in the safe. She stated Mr. Clark told her he was researching the legal possibilities for disposing of these older cases.

The following are copies of sections of the safe log (red denotes cash in the safe and turquoise indicates no forfeiture filed on the cash) which were given to Mr. Clark on November 29, 2007:

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Safe Log Inventory: November 2007

#	DATE	PROPERTY	AGENCY CASE #	CASE #	
54		\$7,310.00	OHP	NO CASE	
121		\$5,800.00	OHP		
144		\$3,500.00	OHP		
		Walkie talkie/phone/guide			
145		\$3,400.00	OHP		
167		\$2,000.00	99131		
183		\$116.00			
		\$298.00 & at scene \$1,700.00			
191		\$1,008.00	MCU00-84		
259	6/3/2003	\$746.00	MCU03-29		
284	2/3/2000	\$1000/120	MCU0018		
293	9/15/2004	\$4565 & 100 Money Order	MCU04-63		CS04-242
321	3/3/06	\$2,720.00	PCPD		CS-06-70
328	5/8/2006	\$1,123.00 Cash	MCU (Noble co)		CV-06-10

District Attorney Mark Gibson and District Attorney employee Loree Bechtold stated they talked to Mr. Clark regarding pending dispositions on forfeiture cases. Mr. Gibson stated he was assured by Clark that he was working on the forfeiture cases.

December 14, 2007 - 1st Assistant District Attorney Will Clark requested that all thirty-four (34) forfeiture cases set for disposal docket be continued.

The court clerk's office set thirty-four (34) forfeiture cases for a disposal docket for December 14, 2007. According to Kay County Deputy Court Clerk Marilee Thornton, the judge has two civil disposal dockets each year, one in June and one in December. The court clerk's office determines the cases to be set on the docket.

Their office runs a search of civil cases where no action has been filed since the previous docket (six months) and sets the cases for the next scheduled docket. Ms. Thornton confirmed that civil cases set for hearing on the December 14, 2007 docket were set by the court clerk's office based on cases where there had been no action since the June 2007 disposal docket. 1st Assistant District Attorney Will Clark requested that all thirty-four (34) cases be continued from the December 14, 2007 docket.

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June 13, 2008 – (next scheduled disposal docket and Clark's last date of employment) 1st Assistant District Attorney sets numerous forfeiture cases for hearing but does not set CS-06-70 for \$2,720 for hearing.

The next disposal docket was scheduled six months later on June 13, 2008. Clark tendered his resignation from the District Attorney's Office effective the same date - June 13, 2008.

On June 13, 2008, Clark requested twenty-nine (29) forfeiture cases be scheduled for hearing on July 2, 2008; however, Clark did not set two of the cases for hearing. One of the cases, CS-06-70, included \$2,720.00 in seized cash (from defendant) that was later discovered missing from the safe. The other case, CS-07-61, included \$18,071.66 in seized cash. This case is addressed later in this report.

The following table lists the cases set by the court clerk's office, the items listed to be forfeited, the cases Clark requested to be continued, and the cases Clark set for hearing.

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Cases set by Court Clerk for 12/14/07	Items to be Forfeited	Cases Clark requested be continued from 12/14/07 disposition docket	Cases Clark requested be set for hearing from 6/13/08 disposition	Other Action
CS-03-50	\$1,097 cash	X	X	
CS-04-34	vehicle	X	X	
CS-05-04	\$264 cash	X	X	
CS-05-215	\$285 cash	X	X	
CS-05-270	\$886 cash	X	X	
CS-05-271	\$970 cash	X	X	
CS-05-272	vehicle	X	X	
CS-05-298	vehicle	X	X	
CS-05-306	\$312 cash	X	X	
CS-05-322	\$956.08 cash	X	X	
CS-05-345	\$307 cash	X	X	
CS-05-346	vehicle	X	X	
CS-06-70	\$2,720 cash	X		Did not set/cash missing
CS-06-133	\$118 cash	X	X	
CS-06-203	vehicle	X		Disposition prior to 6/08
CS-06-225	\$209 cash	X	X	
CS-06-226	\$180 cash	X	X	
CS-06-264	\$300 cash	X	X	
CS-06-265	\$280 cash	X	X	
CS-06-272	\$108 cash	X	X	
CS-06-305	\$366 cash	X	X	
CS-07-39	\$108 cash	X	X	
CS-07-40	\$1,300 cash	X		Layton's case
CS-07-56	\$2,464 cash	X	X	
CS-07-57	vehicle	X		Not set
CS-07-77	\$623.77 cash	X	X	
CS-07-78	\$120 cash	X	X	
CS-07-79	\$971 cash	X	X	
CS-07-85	\$1,065 cash	X		Layton's case
CS-07-124	vehicle	X		Not set
CS-07-146	\$382 cash	X	X	
CS-07-265	vehicle	X	X	
CJ-07-61	Slot machines & \$18,071.06 cash	X		Did not set – portion of cash returned to defendant's attorney w/o order

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June 2008 - Assistant District Attorney Jennifer Layton began working forfeitures cases.

After Clark left employment with the District Attorney's Office, Assistant District Attorney Jennifer Layton was assigned to the position of 1st Assistant District Attorney and took over Clark's job duties pertaining to drug cases and forfeiture cases. The District Attorney changed the safe combination after former Assistant District Attorney Will Clark left employment but did not give the new combination to 1st Assistant District Attorney Jennifer Layton until September 4, 2008.

July 2008 - 1st Assistant District Attorney Layton filed an Order forfeiting the \$2,720 cash from case CS-06-70.

Ms. Layton began working numerous forfeiture cases. In July 2008, Ms. Layton filed an Order forfeiting the \$2,720 cash seized from CS-06-70.

August 2008 - District Attorney employee discovers that the \$2,720 cash is missing from the safe.

On August 25, 2008, the District Attorney opened the safe so that employee Loree Bechtold could get the \$2,720 forfeited cash from CS-06-70 from the safe. Ms. Bechtold could not locate the envelope of cash for this case and advised District Attorney Mark Gibson that the envelope of cash was missing.

August 2008 - District Attorney employee discovers total of \$40,019 cash missing.

Ms. Bechtold noticed that another envelope of cash that had been in the safe since 1995, Log #54, was also missing. She then compared the safe log to the contents of the safe and noticed there were other missing envelopes. She prepared a list of the missing envelopes and the amount of missing cash at the request of District Attorney Mark Gibson, who then reported this to the Attorney General's Office.

On August 28, 2008, an OSBI Agent and Ms. Bechtold compared the safe contents to the safe log and verified missing envelopes of cash. The OSBI Agent and Ms. Bechtold only verified the envelopes to the safe log. They did not open the envelopes and count their contents at this time.

On August 29, 2008, District Attorney Mark Gibson opened the safe for Ms. Bechtold to get the envelopes of cash for the cases that they now had orders of forfeiture on for the cash to be deposited in the office's account. When Ms. Bechtold delivered the envelopes to the treasurer's office for deposit, one of the

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envelopes, Log #293, was \$500 short, as referenced in the next section. The following table listed the cash discovered missing from the safe in August 2008:

Safe Log #	Date	Amount
54	1995	\$ 7,310.00
121	1998	\$ 5,800.00
144	1999	\$ 3,500.00
145	1999	\$ 3,400.00
167	1999	\$ 2,000.00
183	2000	\$ 2,114.00
191	2000	\$ 1,008.00
259	2003	\$ 746.00
284	2000	\$ 1,120.00
293	2004	\$ 500.00
321	2006	\$ 2,720.00
328	2006	\$ 1,123.00
396	2008	\$ 8,678.00
Total cash missing from safe		\$ 40,019.00

Summary of cases of cash missing from the safe:

Safe Log #54, \$7,310: In 1995 an Oklahoma Highway Patrol Trooper seized \$7,310 cash. The cash was seized as part of a possession of stolen credit card case. There was a felony case filed on the defendant that was later dismissed and the defendant was deported to Nigeria. The seized cash was held in the District Attorney's Office safe pending disposition.

Safe Log #121, \$5,800: In 1998, an Oklahoma Highway Patrol Trooper seized \$5,800 cash. The seized cash was held in the District Attorney's Office safe pending disposition.

Safe Log #144 and #145, \$3,500 and \$3,400: In 1999, Oklahoma Highway Patrol Troopers seized \$3,500 and \$3,400 as part of a traffic stop. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #167, \$2,000: In 1999, the Major Crimes Unit, hereinafter referred to as MCU, seized \$2,000 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #183, \$2,114: In 2000, Blackwell Police Department seized \$2,114 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

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Safe Log #191, \$1,008: In 2000, MCU seized \$1,008 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #259, \$746: In 2003, MCU seized \$746 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #284, \$1,120: In 2000, MCU seized \$1,120 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #293, \$500: In September 2004, MCU seized \$4,565 cash and a \$100 money order which was turned over to the District Attorney's Office and placed in the safe. In September 2004, the District Attorney's Office filed a notice of forfeiture on the \$4,565 cash and the money order. An Order of Forfeiture was not filed until after Mr. Clark left the District Attorney's Office. In August 2008, District Attorney employee Loree Bechtold took the envelope of cash to the treasurer's office. The treasurer's office opened the envelope and noted it was \$500 short. Ms. Bechtold noticed the envelope had been opened and resealed.

Safe Log #321, \$2,720: In 2006, MCU seized \$2,720 as part of a drug-related case. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #328, \$1,123: In 2006, MCU seized \$1,123 cash. The cash was held in the District Attorney's Office safe pending disposition.

Safe Log #396, \$8,678: In 2008, the Ponca City Police Department seized \$8,678 as a result of the execution of a search warrant. The seized cash was turned into the District Attorney's Office, and the cash was held in the safe pending disposition.

In September 2008, District Attorney employee Jennifer Layton spoke with former assistant Clark and stated Clark made this comment about the missing funds: "I guess it has to be one of the three of us" (Mark, Will, or Jennifer). Layton and Gibson verified that Layton did not have the safe combination prior to the cash missing.

OSAI noted the last disposition order filed by Clark on seized cash was done in September 2006. In November 2007, Clark filed only three (3) forfeiture orders; all three cases were filed on vehicles. No cash cases were pursued. In 2008 (January 1, 2008 through June 13, 2008), Clark filed only two (2) forfeiture orders. Again, the two cases were filed on vehicles. No cash cases were pursued. After Clark left employment on June 13, 2008, Assistant District Attorney Jennifer Layton took over the forfeiture responsibilities and filed

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dispositions (orders of forfeiture) on 73 cases (sixty-one cash cases and 12 non-cash cases) as set out in the below table:

Orders (Dispositions)							
Assistant District Attorney William Clark					Assistant District Attorney Jennifer Layton		
Year	Cash cases	Non-cash cases	Total		Cash Cases	Non-cash cases	Total
2004	3	2			Na	Na	
2005	17	18			Na	Na	
2006	16	9			Na	Na	
2007	0	3			Na	Na	
2008	0	2			61	12	
Totals	36	34	70		61	12	73
Assistant DA Clark responsible for forfeitures: October 4, 2004–June 13, 2008 (3 years, 8.5 months)							
Assistant DA Layton responsible for forfeitures: June 14, 2008-January 31, 2009 (7.5 months)							

(See the time line chart, Attachment “A.”)

The above may be a violation of **21 O.S. § 341**, which states, in pertinent part, respectively:

§ 341 – Every public officer of the state ... and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state ... or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer’s or person’s hands or money to be raised through an agency for state, city, town, district, or county purposes; or

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the state ... or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than twenty (20) years[.]

RECOMMENDATION OSAI recommends the proper legal authority determine what action, if any, may be required.

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FINDING **\$307 cash is missing that was seized from a defendant but not entered on the safe log.**

In addition to the cash missing from the safe, OSAI noted that in December 2005, the Major Crimes Unit seized \$659 from two defendants: \$307 and \$352 respectively. The District Attorney's Office returned \$352 to one of the defendants. 1st Assistant District Attorney Will Clark directed employee Loree Bechtold to file a notice to forfeit the \$307 seized cash. The cash was not listed on the District Attorney's safe log, and District Attorney employee Loree Bechtold stated the cash was never turned into her. OSAI was unable to verify the disposition or the location of the \$307 seized cash.

RECOMMENDATION OSAI recommends the proper legal authority determine what action, if any, may be required.

FINDING **\$500 cash is returned to a defense attorney without writing an official receipt by the District Attorney's Office, without having a filed order authorizing the return of the cash, and without notifying District Attorney Office personnel charged with the duty of tracking seized cash and safe log contents.**

On August 24, 2005, the drug task force seized \$970 cash and turned the cash over to the District Attorney's Office. The District Attorney's Office logged the \$970 cash into the safe log.

In July 2008, District Attorney employee Loree Bechtold found an unfiled original court minute/order and carbon copies in the District Attorney's Office file. The court minute/order was dated December 15, 2006, and was signed by the defense attorney Tom Salisbury and Assistant District Attorney Will Clark. The court minute/order stated that the "defendant stipulates to FF of \$470 and balance returned to defendant through defendant's attorney. So ordered by the Court. Salisbury enters appearing for claimant." There was no judge's signature on this minute/order.

There is a notation on the bottom of the card attached to the money envelope that was stored in the safe which stated that on December 15, 2006, \$500 was returned to the defendant's attorney, Tom Salisbury. There was also a copy of the cash with the defense attorney's signature on the same page.

Not only had the original court minute/order not been filed in December 2006, there was no office receipt issued, no entry in the District Attorney case log indicating that \$500 of the \$970 seized had been returned to the defendant's

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attorney, and no communication to the employee Loree Bechtold that \$500 cash had been returned to the defendant's attorney.

On September 2, 2009, Loree Bechtold took the envelope to the treasurer for deposit. She deposited the \$470 that was in the envelope.

On February 11, 2009, OSAI spoke to Tom Salisbury. He verified his signature on the copy of cash and stated that he received the \$500 cash and turned the cash over to his client's wife.

RECOMMENDATION OSAI recommends the proper legal authority determine what action, if any, may be required.

FINDING **\$725 cash was released to defendant without advising the employee responsible for tracking cash held in the safe.**

In March 2006, the Ponca City Police Department seized \$1,446 and turned the cash over to the District Attorney's Office. The cash was entered on the District Attorney's safe log. In April 2006, the District Attorney's Office filed a notice to forfeit the cash. An acknowledgement of receipt of \$725 was signed by the Defense Attorney that this amount was refunded on April 28, 2006. 1st Assistant District Attorney Will Clark returned a portion (\$725) of the cash to the defendant's attorney. A photograph copy of the \$725 in cash was in the District Attorney's files. However, the employee responsible for tracking the seized cash was not made aware of the return of a portion of the cash. There was no court order filed indicating that the \$725 was to be returned to the defendant.

RECOMMENDATION OSAI recommends the proper legal authority determine what action, if any, may be required.

FINDING **Seized property - personal checks and cash - was released without a court order.**

In April 2007, as a result of a gambling raid, the Kay County Sheriff's Office seized cash and personal checks totaling \$18,071.06.

Assistant District Attorney Will Clark filed a petition to forfeit the \$18,071.06. Clark subsequently met with Undersheriff Steve Kelly and requested the Undersheriff turn over a portion of the seized funds, \$9,355.54, so that Clark could finalize work on the case. Undersheriff Steve Kelly stated that \$8,662.28 in cash and \$693.26 in personal checks were turned over to Clark.

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According to the defense attorney on this case, Clark returned the cash and checks to him. OSAI noted that three of the checks cleared the banks in June 2007.

The defense attorney advised the OSBI and the District Attorney's Office that \$14,030.13 had been returned and \$4,258.66 had been forfeited, accounting for the total of \$18,288.79. However, the defense attorney's accounting of the funds is inconsistent with the total amount seized, returned, and forfeited. The Sheriff's Office seized \$18,071.06, returned \$710.00 to defendants, turned over \$9,355.54 to Clark, and still has \$8,005.52 in its possession. Therefore the defense attorney's accounting and the sheriff's office accounting do not reconcile.

The court docket on this case shows the following:

April 27, 2007: Petition (for forfeit) listed \$18,071.06

December 14, 2007: Disposal Docket – case passed at the request of Clark

June 13, 2008: Disposal Docket – case passed

July 1, 2008: Journal Entry of Judgment (approved by Will Clark and defense attorney) signed by the Judge

The defense attorney stated \$4,258.66 had been forfeited and \$14,030.13 had been returned. However, there is nothing in the journal entry that orders the disposition of the \$18,071.06 seized cash and checks. Furthermore, the Journal Entry of Judgment was not filed until after Clark was no longer Assistant District Attorney.

RECOMMENDATION OSAI recommends the proper legal authority determine what action, if any, may be required.

FINDING **\$664 in seized cash is turned into 1st Assistant District Attorney and put into the safe without notifying the employee responsible for entering the cash on the safe log.**

In October 2007, the Ponca City Police Department seized \$664 cash and turned it over to Assistant District Attorney Will Clark. Ms. Bechtold noted the cash in the safe during the November 2007 safe inventory. However, the employee failed to enter this on the computerized safe log. Assistant District Attorney Clark did not request a notice of forfeiture be filed on this case, and there was no notice of forfeiture filed until the safe was inventoried in August 2008.

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RECOMMENDATION OSAI recommends that all items seized and held in the District Attorney's safe under his custody be receipted and entered on the safe log. OSAI further recommends that the proper legal authority determine what action, if any, may be required.

INTERNAL CONTROLS District Attorney Mark Gibson had established the following internal controls regarding handling seized cash: employees signed receipts for cash turned in, an employee maintained a safe log to track the safe contents and dispositions, an employee periodically inventoried the safe contents, the 1st Assistant District Attorney and the District Attorney were the only persons who had the safe combination, and the safe combination was changed whenever the 1st Assistant District Attorney changed.

Since the discovery of the missing cash, the District Attorney has implemented the following additional controls: two to three employees verify the cash, the District Attorney's Office issues duplicate, pre-numbered receipts to the officer, the District Attorney's Office holds cash in the safe until a notice of forfeiture is filed. After a notice is filed, either the District Attorney or the 1st Assistant District Attorney (who are the only ones with the safe combination) retrieve the cash from the safe, the cash is counted by two to three employees and then at least two employees carry the cash to the treasurer's office to be deposited into the DA Trust Account pending disposition of the forfeiture.

RECOMMENDATIONS OSAI recommends the District Attorney establish procedures to periodically inventory all items held in his custody and to periodically monitor the controls implemented to determine that they are working properly. OSAI further recommends the appropriate legal authority review the above findings to determine what action, if any, may be required.

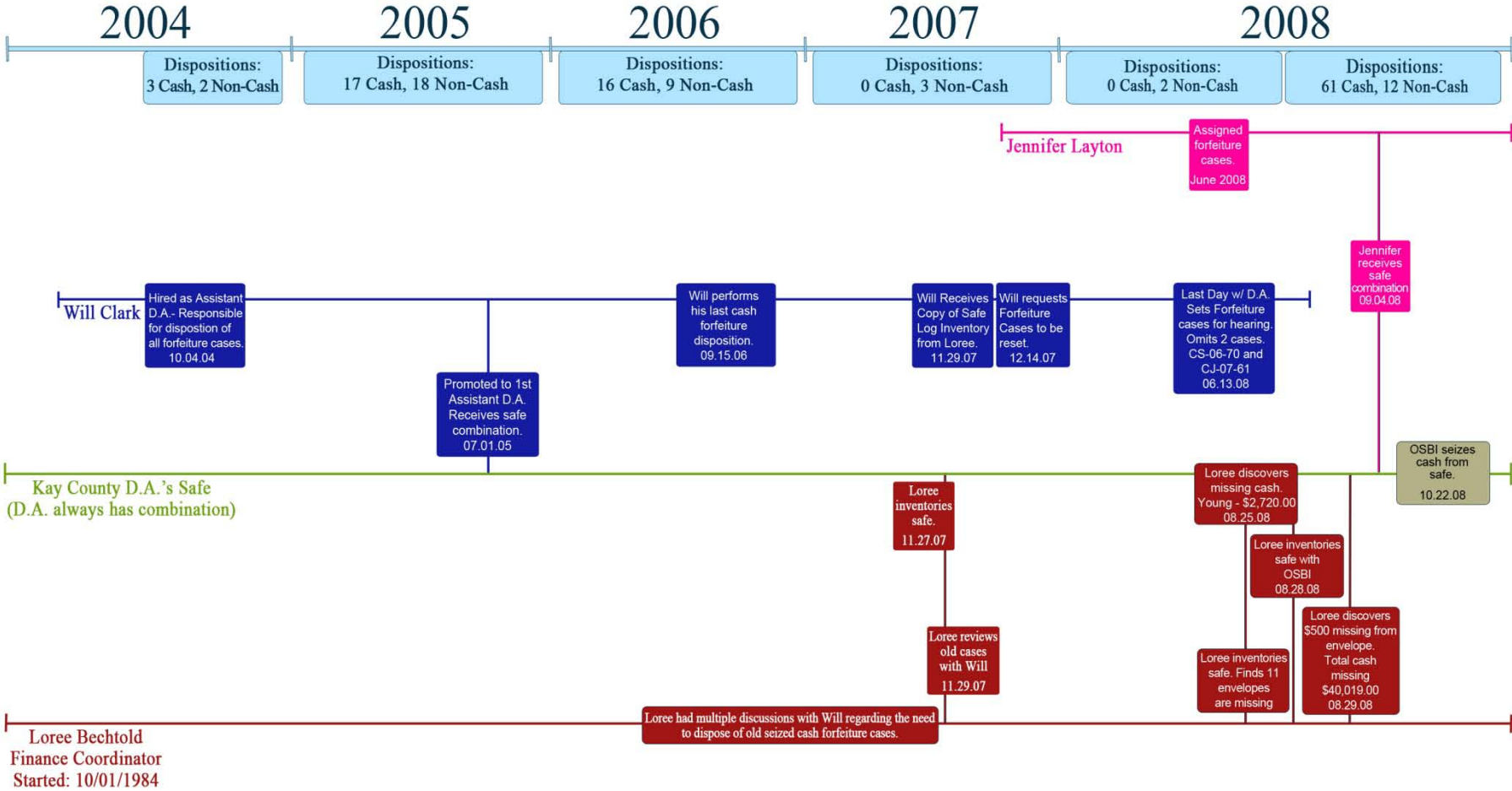
DISCLAIMER Throughout this report there may be references to state statutes and legal authorities, which appear to be relevant to issues raised by the Attorney General and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within the report does not, and is not intended to, constitute a determination of findings by the State Auditor and Inspector, that the District Attorney's Office District No. 8, Kay County, Oklahoma, or any of the individual's named in this report or acting on behalf of the District Attorney's Office District No. 8, Kay County, Oklahoma, have violated any statutory requirements or prohibition imposed by

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law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the District Attorney's policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.

Attachment A – Time line





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