

**JOHN DAVID LUTON
DISTRICT ATTORNEY, DISTRICT 15
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED
JUNE 30, 2002**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

November 3, 2003

John David Luton, District Attorney
District 15

Transmitted herewith is the statutory report for the District Attorney of District 15, Muskogee County, Oklahoma, for the fiscal year ended June 30, 2002. 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 cursive script that reads "Jeff A. McMahan".

JEFF A. McMAHAN
State Auditor and 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.



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

Statutory Report

John David Luton
District Attorney, District 15
Muskogee County Courthouse
Muskogee, Oklahoma 74401

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 2002:

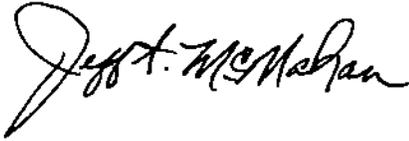
- We examined a group of receipts and deposit slips for propriety.
- We reviewed sale documentation for selected cases to determine whether forfeited assets were sold after due notice at public auction to the highest bidder in accordance with Title 63 O.S. §2-508.C.3.
- For selected cases, the distribution of proceeds of the sale was reviewed to determine the distribution was in accordance with Court order pursuant to Title 63 O.S. §2-506.K.
- We determined whether expenditures were used for enforcement of controlled dangerous substance laws, drug abuse prevention and education in accordance with Title 63 O.S. §2-506.L.3.
- We determined whether expenditures were supported by approved claims, invoices, and independent verification that goods or services paid for were received in accordance with Title 63 O.S. §2-508.C.3.
- We determined 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 Title 63 O.S. §2-506.L.3.

Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Muskogee County.

Based on our procedures performed, District 15 is properly receipting and depositing the proceeds of forfeitures; expenditures were made for lawful uses; 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 Attorney's Council and the District Attorney reconciles the balance of the Property Forfeiture Fund with the County Treasurer. With respect to District 15 forfeiture documents, our findings are presented in the attached Schedule of Findings and Recommendations.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff A. McMahon". The signature is written in a cursive, flowing style.

JEFF A. McMAHAN
State Auditor and Inspector

August 18, 2003

**JOHN DAVID LUTON
DISTRICT ATTORNEY, DISTRICT 15
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
JUNE 30, 2002**

Finding 2002-1 – Forfeiture Documents

Criteria: Title 63 O.S. 2001, §2-506.B. requires a “notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county wherein such property is seized and shall be given all owners and parties in interest.” Title 63 O.S. §2-506.K. requires the district attorney to “maintain a true and accurate inventory and record of all such property seized.” Title 63 O.S. §2-508.C. requires the district attorney to file a petition with the courts asking permission to conduct a sale of the property. The petition shall have a list attached describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the district attorney, and the name and address of the owner, if known.

Condition: The notice of seizure was not filed for all items seized and sold by the District Attorney. Seized property was not sold nor recorded on the District Attorney's inventory records. Seized property was returned to “rightful owners” without any court action or record of the “rightful owners” claim to the property. Seized property was converted to district use without a court order. Seized property converted to district use was not recorded on inventory records.

Recommendation: State Statutes concerning property forfeiture should be followed closely to prevent any recourse by defendants after property is sold. Inventory records should reflect all forfeitures on hand.