

**JOHN DAVID LUTON
DISTRICT ATTORNEY, DISTRICT 15
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED
JUNE 30, 2004**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

June 22, 2005

John David Luton, District Attorney
District 15

Transmitted herewith is the statutory report for the District Attorney of District 15, Muskogee County, Oklahoma (the District), for the fiscal year ended June 30, 2004. 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,



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

Mr. 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 it relates to the records of the Property Forfeiture Fund for the fiscal year 2004:

- 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 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 63 O.S. §2-506.K.
- We determined whether there was a true and accurate inventory of seized items maintained.
- We determined whether expenditures tested were used for enforcement of controlled dangerous substance laws, drug abuse prevention and education in accordance with 63 O.S. §2-506.L.3.
- We determined whether expenditures tested were supported by approved claims, invoices, and independent verification that goods or services paid for were received in accordance with 63 O.S. §2-508.C.3.
- We determined 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.
- We determined whether expenditures were properly classified and whether the District Attorney reconciles the balance with the County Treasurer monthly in accordance with 63 O.S. §2-508.C.3.

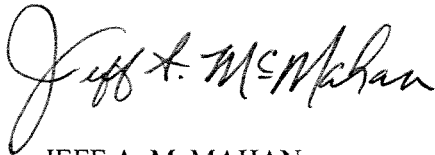
Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Muskogee County.

Based on our procedures performed, forfeited assets were sold at public auction to the highest bidder; the proceeds of forfeitures were distributed as directed by Court orders; 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 Board of County Commissioners; expenditures are properly classified and the District Attorney reconciles the balance of the Property Forfeiture Fund with the County Treasurer's records monthly. With respect to the District receipting and depositing the proceeds of forfeitures, proper notices and inventory of forfeited items, our findings are presented in the attached Schedule of Findings and Recommendations.

We have prepared a detailed analysis of the Property Forfeiture Fund, which is presented following this report.

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 that reads "Jeff A. McMAHAN". The signature is written in a cursive style with a large initial "J" and "M".

JEFF A. McMAHAN
State Auditor and Inspector

June 14, 2005

Finding 2003-1 - Forfeiture Documents (Repeat Finding)

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 “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 requesting the authority to convert title of the property to the District or 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: There was property sold without an Order, property forfeited with no notice to the record owners, seized property was converted to District use without a court order and there was not a complete inventory of seized items.

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

Finding 2004-1 - Forfeiture Funds (Repeat Finding)

Criteria: The District Attorney’s office has established procedures for the accountability of seized funds. The procedures provide for the timely deposit of seized cash to account 9k (evidence seizure). These procedures are necessary for effective internal control of seized funds.

Condition: The District Attorney’s office does not always follow its procedures. One deposit dated June 9, 2004, included funds from six (6) forfeiture cases. The forfeiture cases had been filed during the years 2000 and 2001. However, the funds were neither receipted nor deposited until June 9, 2004.

Recommendation: We recommend the District Attorney’s office receipt seized funds into the DA Evidence Seizure (9k) account at the time the funds are seized. All funds received should be deposited in a timely manner.

PROPERTY FORFEITURE FUND ANALYSIS

BEGINNING CASH BALANCE ON JULY 1, 2003 \$ 179,612

INCOME

Cash forfeited 106,442
Other income (donation, interest) 50,417

TOTAL INCOME (before distributions) 156,859 156,859

DISTRIBUTION TO OTHER AGENCIES

Cash returned to other agencies 53,954

TOTAL DISTRIBUTIONS 53,954 53,954

EXPENDITURES BY DISTRICT ATTORNEY

Personnel and Benefits 5,455
Education/Prevention 625
Equipment 14,705
Operating Expense 8,592
Rent 2,160
Travel 746
Other 62,469

TOTAL EXPENDITURES 94,752 94,752

ENDING CASH BALANCE ON JUNE 30, 2004 \$ 187,765