

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED
JUNE 30, 2007**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

July 3, 2008

Jeff Smith, District Attorney
District 16

Transmitted herewith is the statutory report for the District Attorney of District 16, Latimer and LeFlore Counties, Oklahoma (the District), for the fiscal year ended June 30, 2007. 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 "Michelle R. Day". The signature is written in a cursive, flowing style.

MICHELLE R. DAY, Esq.
Deputy 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

Statutory Report

Jeff Smith
District Attorney, District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

For the purpose of complying with 74 O.S. §212 (E) and 63 O.S. §2-506, we have performed the following procedures as it relates to the records of the Property Forfeiture Fund for the fiscal year 2007:

- 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. §2-508.C.3.
- 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.
- Determine 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.
- 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 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 accounting standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Latimer or LeFlore Counties.

Based on our procedures performed, 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 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 were 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 properly receipting and depositing the proceeds of forfeitures, our finding is included in the schedule of findings and responses.

We have included in this report 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 Latimer and LeFlore County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day". The signature is written in a cursive, flowing style.

MICHELLE R. DAY, Esq.
Deputy State Auditor and Inspector

June 27, 2008

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
JUNE 30, 2007**

PROPERTY FORFEITURE FUND ANALYSIS

BEGINNING CASH BALANCE ON JULY 1, 2006 \$ 63,573

INCOME

Cash forfeited	21,258
Court ordered assessments	<u>10,005</u>

TOTAL INCOME (before distributions) 31,263

DISTRIBUTION TO OTHER AGENCIES

Equipment purchased for other agencies	19,396
Other	<u>1,538</u>

TOTAL DISTRIBUTIONS 20,934

EXPENDITURES BY DISTRICT ATTORNEY

Confidential informants	5,000
Education/prevention	1,898
Operating expense	<u>11,479</u>

TOTAL EXPENDITURES 18,377

ENDING CASH BALANCE ON JUNE 30, 2007 \$ 55,525

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2007-1 – Property Forfeiture Seized Items

Criteria: Title 63 O.S. § 2-506.K. states, “Property taken or detained under this section shall not be replevable, 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: While reviewing Property Forfeiture cases, the following was noted:

- Case CV-06-420 for \$300.00. This case is pending. We were not able to visually verify the cash.
- Case CV-06-152 for \$2,610.00. This case was forfeited November 11, 2007; however, as of the date of audit the funds have not been deposited or dispersed.
- Case CV-07-331 for \$3,000.00. This case was forfeited February 8, 2008; however, as of the date of the audit the funds have not been deposited or dispersed.
- Case CV-07-414 for \$250.00. This case was forfeited September 17, 2007; however, as of the date of audit the funds have not been deposited or dispersed.

Effect: This condition could result in misappropriation of funds.

Recommendation: We recommend that the District Attorney’s office review this finding to determine if further action is necessary. We further recommend that the District Attorney’s office maintain a true and accurate inventory of all property seized and deposit forfeited funds in a timely manner.

Views of responsible officials and planned corrective actions: On June 27, 2008, all forfeited funds in Case numbers CV-06-152, CV-07-331, and CV-07-414 were duly deposited with the LeFlore County Treasurer. Case number CV-06-420 was a case filed by a prior administration. The best information we have is that the \$300.00 was never turned over to the D.A.’s Drug Task Force. We can find no receipts. It was later explained that the Pocola P.D. may have mixed these funds in with another cash seizure. I cannot independently verify that. In the future, this office will not file the forfeiture cases unless we have the funds receipted to us. Further, upon receiving a forfeiture order, this office will immediately deposit forfeited funds with the Treasurer.



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