

**DISTRICT ATTORNEY
DISTRICT 18**

**PROPERTY
FORFEITURE FUND**

JUNE 30, 2007

**STATUTORY
REPORT**



Oklahoma State Auditor
& Inspector

**JIM BOB MILLER, DISTRICT ATTORNEY
DISTRICT 18
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

Steve Burrage, CPA
State Auditor and Inspector

September 8, 2008

Jim Bob Miller, District Attorney
District 18

Transmitted herewith is the statutory report for the District Attorney of District 18, Haskell and Pittsburg 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 "Steve Burrage".

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

A handwritten signature in blue ink that reads "Michelle R. Day".

MICHELLE R. DAY, ESQ.
DEPUTY 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.



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Steve Burrage, CPA
State Auditor and Inspector

Statutory Report

Jim Bob Miller
District Attorney, District 18
Pittsburg County Courthouse
McAlester, Oklahoma 74501

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 Haskell or Pittsburg Counties.

Based on our procedures performed, forfeited assets were sold after proper notice at public auction to the highest bidder; 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 reconciled the balance of the Property Forfeiture Fund with the County Treasurer's records monthly. With respect to properly receipting and depositing the proceeds of forfeitures; and the proceeds of forfeitures being distributed as directed by Court orders, our finding is presented in the accompanying 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 Haskell and Pittsburg County officials. However, this report is a matter of public record and its distribution is not limited.



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR



MICHELLE R. DAY, ESQ.
DEPUTY STATE AUDITOR & INSPECTOR

August 26, 2008

PROPERTY FORFEITURE FUND ANALYSIS

BEGINNING CASH BALANCE ON JULY 1, 2006	\$ 97,955
BEGINNING DRUG ASSET FORFEITURE BALANCE - DAC 6-30-06	227

INCOME

Cash forfeited	154,971	
Court ordered assessments	4,786	
Other: Restitution	128	
Reimbursement for overmatch	2	
Funds deposited to be returned to defendants	100,510	
Cancelled warrants	869	
	<u> </u>	
TOTAL INCOME (before distributions)		<u>261,266</u>

DISTRIBUTION TO OTHER AGENCIES

Cash returned to other agencies	29,316	
Returned to defendants	100,510	
	<u> </u>	
TOTAL DISTRIBUTIONS		<u>129,826</u>

EXPENDITURES BY DISTRICT ATTORNEY

Personnel and benefits	33,420	
Compsource Oklahoma, 4th quarter	186	
Confidential informants	540	
Cost of prosecution/investigation	4,080	
Operating expenses	835	
Storage and towing	758	
	<u> </u>	
TOTAL EXPENDITURES BY DISTRICT ATTORNEY		<u>39,819</u>

OUTSTANDING EXPENDITURES

Pittsburg County	519	
Haskell County	15,656	
	<u> </u>	
TOTAL OUTSTANDING EXPENDITURES		<u>16,175</u>

OTHER ITEMS

Balance DAC forfeiture fund 6/30/07	(22)	
TOTAL OTHER ITEMS	<u>(22)</u>	
ENDING CASH BALANCE ON JUNE 30, 2007		<u><u>\$ 173,606</u></u>

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 repleviable, 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 C-07-395 for \$13,464.00. This case is pending. The original court records state that \$13,464.00 was seized; however, \$12,464.00 was deposited in the case. This resulted in a variance of (\$1,000.00).
- Case C-06-1190 for \$6,393.00 and a 410 shotgun. The original court records state that \$6,393.00 was seized; however, \$6,493.00 was deposited in the case. This resulted in a variance of \$100.00. In addition, the case was dismissed and \$6,493.00 was returned to the defendant, but there was no documentation to verify the defendant received the shotgun. The 410 shotgun was visually verified at the District Attorney’s Task Force office.

Effect: This condition could result in loss or misappropriation of seized property.

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.

Views of responsible officials and planned corrective actions: “I am in receipt of your Property Forfeiture Fund Summary of Reportable Findings for the year ended June 30, 2007, with your request for planned corrective actions. In response to the findings contained within your Property Forfeiture Fund with Summary Reportable Findings audit for the year ended June 30, 2007, this office has taken the following corrective actions:

First, in the past the forfeiture cases were filed based upon the information which was submitted to the District Attorney’s office by the law enforcement agency in the law enforcement report made at the time of the arrest. That was the case in C-07-395 in which there is a \$1,000.00 variance in the amount reported to the District Attorney’s office in the law enforcement report and in the amount which was subsequently turned over to the District Attorney’s office. The original police report reflected \$13,464.00 seized, however when the funds were delivered to the District Attorney’s office by the McAlester Police Department only \$12,464 was received and receipted by the District Attorney’s office and is being held in the task force safe deposit box pending forfeiture.

The same thing occurred in C-06-1190 where there was a \$100.00 discrepancy because it was initially reported by law enforcement that \$6,393.00 was seized in the law enforcement, however when the funds were brought to the District Attorney's office there was \$6,493.00. The District Attorney's office subsequently dismissed C-06-1190 and in accordance with the dismissal \$6,493.00 was returned to the defendant. The 410 shotgun was retained by the law enforcement agency making the arrest and was not turned over to the District Attorney's office.

In order to avoid errors and discrepancies in the future and to insure true and accurate inventory, the District Attorney's office has implemented a policy which requires the law enforcement agency which is requesting a forfeiture to be filed to bring to the District Attorney's office the funds and/or personal property which is to be forfeited. The purpose of the policy is protection for the law enforcement agency and for the District Attorney's office. The funds will be counted at the District Attorney's office, a receipt given to the law enforcement agency, and the funds are placed into the safe deposit box awaiting the completion of the forfeiture action.

The personal property is to be placed in the District Attorney's vault with receipt provided to the law enforcement agency awaiting the completion of the forfeiture action unless the personal property is a vehicle. If a vehicle, the vehicle will remain in a stored location pending the completion of the forfeiture action.

The District Attorney's office believes that the implementation of the new policy will correct the errors and discrepancies which are addressed in Finding 2007-1 of the Property Forfeiture Fund Summary of Reportable Findings."



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