

**MITCH SPERRY
DISTRICT ATTORNEY, DISTRICT 20
STATUTORY REPORT
PROPERTY FORFEITURE
FOR THE YEAR ENDED
JUNE 30, 2003**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

October 31, 2003

Mitch Sperry, District Attorney
District 20

Transmitted herewith is the statutory report for the District Attorney of District 20, Carter, Marshall, Murray, Johnston, and Love Counties, Oklahoma, (the District) for the fiscal year ended June 30, 2003. 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 black ink 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

Mitch Sperry
District Attorney, District 20
Carter County Courthouse
Ardmore, Oklahoma 73401

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 2003:

- 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 tested 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 tested 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 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 Title 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 Title 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 Carter County, Marshall County, Murray County, Johnston County, or Love County.

Based on our procedures performed, District 20 is properly receipting and depositing the proceeds of forfeitures; forfeited assets were sold after proper notice at public auction to the highest bidder; expenditures were made for lawful uses; goods or services paid for were received; the District Attorney prepared and submitted an annual report to the Board of County Commissioners; and expenditures are properly classified. With respect to District 20 expenditures being supported by invoices and approved claims, proceeds of forfeitures being distributed by court order, and Property Forfeiture Fund being reconciled to the County Treasurer's records monthly, 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 Carter County, Marshall County, Murray County, Johnston County, and Love 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. McMAHAN". The signature is written in a cursive, flowing style.

JEFF A. McMAHAN
State Auditor and Inspector

October 13, 2003

Schedule of Findings and Recommendations

Finding 2003-1 – Ledgers not Reconciled

Criteria: Safeguarding controls are an aspect of internal control. Safeguarding controls relate to the prevention or timely detection of unauthorized transactions and unauthorized access to assets. Failure to perform tasks that are part of internal controls, such as maintaining and reconciling ledgers on a timely basis, are deficiencies in internal control.

Condition: We noted that the District Attorney's office in Love County did not maintain a complete ledger of the District Attorney Property Forfeiture Revolving Fund; therefore, a reconciliation could not be performed.

Recommendation: We recommend that the District Attorney Property Forfeiture Revolving Fund be reconciled to the County Treasurer's records on a monthly basis.

Management's Response: Management is implementing procedures to correct this issue.

Finding 2003-2 – Expenditures

Criteria: Effective accounting procedures are necessary to ensure stewardship and accountability of public funds. All expenditures of the Property Forfeiture Revolving Fund should be supported by approved claims and original invoices/supporting documentation.

Condition: In Love County claims were not used and original invoices were not maintained.

Recommendation: We recommend all expenditures be supported by approved claims and original invoices.

Management's Response: Procedures have been implemented to ensure that all expenditures be supported by approved claims and invoices.

Finding 2003-3 – Forfeitures

Criteria: Title 63 O.S. 2001, § 2-506.K. states, “property taken or detained under this section shall not be repleviabie, 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 to the orders and decrees of the court or the official having jurisdiction thereof...” and Title 63 O.S. 2001, § 2-506.L.3. states, “the balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized...”

Condition: During District Attorney property forfeiture test work, the following was noted for Marshall County:

Case number CV-02-45 was assisted by the Madill Police Department. The items forfeited were stored at the Madill Police Department. All items were visually verified, with the exception of two televisions and two VCRs, which were said to be sold at auction. The proceeds of the auction were deposited with the City of Madill and not returned to the District Attorney Drug Fund in accordance with the judgment. The Madill Police Department did not have records specific enough to verify that the items were actually sold at the auction.

Recommendation: We recommend that the proceeds from forfeiture items that are sold at auction be disbursed in accordance with state statutes and court orders.

Management’s Response: Management is implementing procedures to correct this issue.

PROPERTY FORFEITURE ACCOUNT ANALYSIS
D.A. TASK FORCE FORFEITURE ACCOUNT

BEGINNING CASH BALANCE ON JULY 1, 2002		<u>\$ 9,922</u>
INCOME		
Cash forfeited	\$ 183,193	
Court ordered assessments	405	
Reimbursement	1,095	
Transfer of funds	85	
Cancelled vouchers	<u>1,268</u>	
TOTAL INCOME (before distributions)		<u>\$ 186,046</u>
DISTRIBUTION TO OTHER AGENCIES		
Cash returned to other agencies	<u>\$ 90,825</u>	
TOTAL DISTRIBUTIONS		<u>\$ 90,825</u>
EXPENDITURES BY DISTRICT ATTORNEY		
Personnel and benefits	\$ 32,795	
Confidential informants	1,000	
Costs of prosecution/investigation	872	
Equipment	468	
Operating expense	26,478	
Rent	1,300	
Storage and towing	1,560	
Travel	152	
Auctioneer fees	12,863	
Administration match	1,880	
D.A. Task Force Coord. Fee	<u>803</u>	
TOTAL EXPENDITURES		<u>\$ 80,171</u>
ENDING CASH BALANCE ON JUNE 30, 2003		<u>\$ 24,972</u>

**PROPERTY FORFEITURE ACCOUNT ANALYSIS
OTHER D.A. FORFEITURE**

BEGINNING CASH BALANCE ON JULY 1, 2002		<u>\$ 26,801</u>
INCOME		
Cash forfeited	\$ 31,879	
Court ordered assessments	1,354	
Value non-cash assets forfeited or sold	1,795	
Cash rebate	50	
Cancelled vouchers	<u>144</u>	
TOTAL INCOME (before distributions)		<u>\$ 35,222</u>
DISTRIBUTION TO OTHER AGENCIES		
Cash returned to other agencies	\$ 4,652	
Equipment purchased for other agency	<u>600</u>	
TOTAL DISTRIBUTIONS		<u>\$ 5,252</u>
EXPENDITURES BY DISTRICT ATTORNEY		
Personnel and benefits	\$ 19,000	
Costs of prosecution/investigation	200	
Operating expense	3,933	
Storage and towing	900	
Returned to defendants - Love County	2,648	
Transfer of fees to D.A. Drug Enforcement Revolving Fund	850	
Transfer of funds	<u>19,792</u>	
TOTAL EXPENDITURES		<u>\$ 47,323</u>
ENDING CASH BALANCE ON JUNE 30, 2003		<u>\$ 9,448</u>