

**TIM D. KUYKENDALL
DISTRICT ATTORNEY, DISTRICT 21
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

May 26, 2005

Tim D. Kuykendall, District Attorney
District 21

Transmitted herewith is the statutory report for the District Attorney of District 21, Cleveland, Garvin, and McClain Counties, 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,

A handwritten signature in cursive script that reads "Jeff A. McMahon".

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

Tim D. Kuykendall
District Attorney, District 21
Cleveland County Courthouse
Norman, Oklahoma 73069

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 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 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.

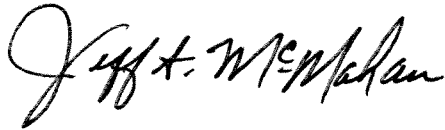
Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with accounting standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Cleveland, Garvin,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

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 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 receiving and depositing the proceeds for forfeitures, our finding is noted in the Schedule of Findings and Recommendations.

We have included in this report a detailed analysis of the Property Forfeiture Fund.

This report is intended for the information and use of the District Attorney and Cleveland County, Garvin County, and McClain 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. McMahán". The signature is written in a cursive, flowing style.

JEFF A. McMAHAN
State Auditor and Inspector

April 22, 2005

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

Finding 2004-1 - Receipting and Depositing Proceeds

Criteria: Title 63 O.S. 2001, § 2-506.K states, "Property taken or detained under this section shall not be repleviabile, 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...." Effective internal controls require safeguarding of seized property and adequate controls to ensure property is protected against loss.

Condition: During examination of Garvin County District Attorney's Property Forfeitures it was noted that from case CS-2003-331, \$4,500 in U.S. currency was forfeited to the Garvin County District Attorney on December 18, 2003. This money could not be traced to a receipt or deposit.

Recommendation: We recommend that the District Attorney review this finding to determine if further action is necessary.

Management's Response: An investigation has been conducted by the Oklahoma State Bureau of Investigation, at the District Attorney's request. Management has implemented procedures to correct this issue.

PROPERTY FORFEITURE FUND ANALYSIS

BEGINNING CASH BALANCE ON JULY 1, 2003 \$ 30,733

INCOME

Cash forfeited	\$ 72,682
Court ordered assessments	79,630
Value non-cash assets forfeited and sold	15,955
Other	<u>561</u>

TOTAL INCOME (before distributions) \$ 168,828

DISTRIBUTION TO OTHER AGENCIES

Disbursements	\$ 50,870
Equipment purchased for other agencies	<u>317</u>

TOTAL DISTRIBUTIONS \$ 51,187

EXPENDITURES BY DISTRICT ATTORNEY

Personnel and benefits	\$ 65,030
Cost of prosecution/investigation	2,842
Education/prevention	2,629
Equipment	12,909
Operating expenses	15,080
Rent	900
Travel	4,778
Other	<u>2,423</u>

TOTAL EXPENDITURES BY DISTRICT ATTORNEY \$ 106,591

ENDING CASH BALANCE ON JUNE 30, 2004 \$ 41,783