

**MAX COOK
DISTRICT ATTORNEY, DISTRICT 24
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED
JUNE 30, 2002**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

October 27, 2003

Max Cook, District Attorney
District 24

Transmitted herewith is the statutory report for the District Attorney of District 24, Creek and Okfuskee Counties, Oklahoma, for the fiscal year ended June 30, 2002. 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. McMahan".

JEFF A. McMAHAN
State Auditor and Inspector

TABLE OF CONTENTS

Introductory Information.....ii
Statutory Report of State Auditor and Inspector 1
Schedule of Findings and Recommendations 3
Management Response.....4

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

Max Cook
District Attorney, District 24
Creek County Courthouse
Sapulpa, Oklahoma 74066

For the purpose of complying with 74 O.S. §212 (E) and 63 O.S. §2-506, we have performed the following procedures as they relate to the records of the Property Forfeiture Fund for the fiscal year 2002:

- 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 attempted to determine whether expenditures 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 attempted to determine whether expenditures 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.

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 Creek County or Okfuskee County.

Based on our procedures performed, forfeited assets were sold after proper notice at public auction to the highest bidder and the proceeds of forfeitures were distributed as directed by Court orders. Our findings as to receipts, expenditures, and annual reports are presented in the attached Schedule of Findings and Recommendations.

This report is intended for the information and use of the District Attorney and Creek County and Okfuskee 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. McMahon". The signature is written in a cursive, flowing style.

JEFF A. McMAHAN
State Auditor and Inspector

July 1, 2003

**MAX COOK, DISTRICT ATTORNEY
DISTRICT 24
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
JUNE 30, 2002**

Finding 2002-1 – Availability of Records

Criteria: According to 51 O.S. 2001, § 24A.4. ..."every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto ..."

Condition: All records were not available for inspection by the State Auditor and Inspector at Okfuskee County. Vouchers, receipts, invoices, claims, and receiving reports could not be provided for the audit of the District Attorney's Property Forfeiture Program.

Effect: This condition results in noncompliance with state statutes and could result in undetected errors and misstated financial reports.

Recommendation: It is recommended that complete records be maintained for the Property Forfeiture Program by the District Attorney's Office.

Finding 2002-2 – Yearly Reports

Criteria: According to 63 O.S. 2001 § 2-506.L.3. ..."with a yearly accounting to the board of county commissioners in whose county the fund is established ..."

Condition: The District Attorney's Office is not currently submitting yearly reports to the County Commissioners.

Effect: This results in noncompliance with state statutes.

Recommendation: We recommend that the District Attorney's Office begin submitting yearly reports to the County Commissioners. The report should consist of the beginning balance, money received, money disbursed, and ending balances.

SA&I Response: The finding 2002-3 addressed in the Assistant District Attorney's response is applicable to the bogus check fund engagement.

MAX COOK
District Attorney
District No. 24
Creek-Okfuskee Counties
P. O. Box 225
Okemah, Oklahoma 74859
Phone (918) 623-1411
Fax (918) 623-2607

Glen D. Hickerson
Assistant District Attorney

October 23, 2003

RAY MAXWELL, SA & I
Tulsa District Audit Manager
Office of the Auditor & Inspector
Tulsa, Oklahoma 74127-8915

Dear Mr. Maxwell:

Our office is in receipt of a copy of your letter and findings of the preliminary audit of the District Attorney's Office of Creek and Okfuskee Counties. Please regard this letter as written response to those findings.

With regard to Finding 2002-1-Availability of Records, I would advise you as follows: Our office was informed by the field auditors in May, 2003, that they would soon be conducting an audit on the bogus check and drug forfeiture accounts. As routine, my secretary pulled all deposit, receipt and voucher books and placed those records in a storage box to be reviewed by the auditors.

Prior to the field auditors retrieving these documents, we requested a trustee from the Okfuskee County Jail, Roy McVeigh, carry expired statute books from our office to be placed in the courthouse dumpster. The trustee went beyond our requests and accidentally took the box containing the aforementioned financial records. Voucher records were kept on computer and deposit records were available through the county treasurer. However, the only sequentially numbered record of "receipts" was kept in the receipt books carried out by Roy McVeigh. Our office did everything possible to retrieve these documents, including investigators going to the Barlsboro landfill. The investigators were informed that it would be impossible to find the box. I have attached a statement taken from Roy McVeigh by the Okfuskee County Sheriff's Department.

Please be advised that our office has taken measures to ensure this type of incident will not occur again. Bogus check files are now kept on computer with the program Bounce Back. A secure filing cabinet has been obtained for the safe keeping of these records which will no longer be retrieved until the field auditors are ready for their inspection.

We were informed by field auditors of the requirement of our office to submit yearly reports to the county commissioners. Upon being advised of the statute requiring such report, our office provided a report for the county commissioners for fiscal year 2002-2003. A report will be provided at the end of each fiscal year to the commissioners. This will ensure the requirements noted in Finding 2002-2 are met.

With regard to Finding 2002-3 Annual Report, this report was submitted as required by the State of Oklahoma and a copy was given to the field auditors. Again, any other documents they may have required that were not available at the time, would have been contained in the storage box.

Please feel free to contact our office should you have questions or need more information.

Respectfully,



Glen D. Hickerson
Assistant District Attorney

FIRST ASSISTANT
DON I. NELSON

ASSISTANT DISTRICT ATTORNEYS
DANA BARNETT
LAURA FARRIS
BARTLEY LOGSDON
PAMELA HAMMERS
GLEN HICKERSON
CAROL ISKJ
MIKE LOEFFLER

VICTIM/WITNESS SERVICES
(918) 224-3921

CHILD SUPPORT ENFORCEMENT DIVISION
P.O. BOX 1126
SAPULPA, OK 74087
(918) 224-7504



MAX COOK
DISTRICT ATTORNEY
DISTRICT NO. 24

CREEK & OKFUSKEE COUNTIES
CREEK COUNTY COURTHOUSE
222 EAST DEWEY ST., SUITE 302
SAPULPA, OKLAHOMA 74088
PHONE: (918) 224-3821
FAX: (918) 227-8346

BOGUS CHECK DIVISION
(918) 227-6348

BRISTOW OFFICE
110 WEST 7TH STREET
BRISTOW, OK 74010
(918) 367-8503
Fax (918) 367-8685

DRUMRIGHT OFFICE
124 WEST BROADWAY
DRUMRIGHT, OK 74030
(918) 352-3868

OKEMAH OFFICE
P.O. BOX 223
OKEMAH, OK 74859
(918) 623-1411
Fax (918) 623-2507

October 23, 2003

VIA FACSIMILE
(918)581-2608

State of Oklahoma
Office of the Auditor and Inspector
Ray Maxwell, SA&I
Tulsa District Audit Manager
440 S. Houston, Room 307
Tulsa, OK 74127-8915

The following is our response from District 24, Creek County, to the findings of the auditor for fiscal year ended June 30, 2002:

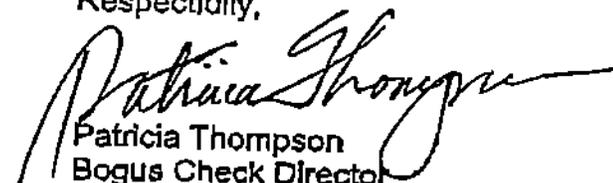
Bogus Checks
Finding 2002-2

When records were transferred to a new program, discrepancies were found and the State Auditors Office concluded that a complete monthly reconciliation was not possible using the old program. The new program has the capabilities to reconcile with the treasure's office each month.

Property Forfeiture
Finding 2002-2

An annual report is submitted to the District Attorney's Council showing total deposits and total expenditures to the Property Forfeiture. We will forward a copy of this report to the County Commissioners in accordance with State Statute.

Respectfully,


Patricia Thompson
Bogus Check Director