

**DISTRICT ATTORNEY
DISTRICT 8**

**PROPERTY
FORFEITURE FUND**

**FOR THE YEAR ENDED
JUNE 30, 2006**



STATUTORY REPORT



Oklahoma State Auditor
& Inspector

**MARK GIBSON
DISTRICT ATTORNEY, DISTRICT 8
STATUTORY REPORT
PROPERTY FORFEITURE FUND
FOR THE YEAR ENDED
JUNE 30, 2006**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-3426 www.sai.ok.gov

December 1, 2008

Mark Gibson, District Attorney
District 8

Transmitted herewith is the statutory report for the District Attorney of District 8, Kay and Noble Counties, Oklahoma (the District), for the fiscal year ended June 30, 2006. 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 AUDITOR AND INSPECTOR

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Statutory Report

Mr. Mark Gibson
District Attorney, District 8
P.O. Box 450
Newkirk, Oklahoma 74647

For the purpose of complying with 74 O.S. §212 (E) and 63 O.S. §2-506, we have performed each of the following procedures as it relates to the records of the Property Forfeiture Fund for the fiscal year 2006:

- 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 Kay or Noble 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 supported by approved claims, invoices, and independent verification that goods or services paid for were received; and expenditures were properly classified. With respect to properly receipting and depositing the proceeds of forfeiture; whether the District Attorney prepared and submitted an annual report to the Board of County Commissioners; and whether the District Attorney reconciles the balance of the Property Forfeiture Fund with the County Treasurer's records monthly, our findings are presented in the schedule of findings and responses.

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 Kay and Noble County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR



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

September 3, 2008

PROPERTY FORFEITURE FUND ANALYSIS

BEGINNING CASH BALANCE ON JULY 1, 2005 \$ 101,320

INCOME

Cash forfeited	175,043	
Court ordered assessments	45,742	
Non-cash assets forfeited and sold	<u>10,486</u>	
TOTAL INCOME (before distributions)		<u>231,271</u>

DISTRIBUTION TO OTHER AGENCIES

Cash returned to other agencies	<u>60,920</u>	
TOTAL DISTRIBUTIONS		<u>60,920</u>

EXPENDITURES BY DISTRICT ATTORNEY

Personnel and benefits	55,000	
Confidential informants	9,350	
Cost of prosecution/investigation	10,582	
Equipment	7,036	
Operating expense	25,539	
Rent	3,266	
Storage & towing	176	
Travel	1,104	
Other	<u>1,081</u>	
TOTAL EXPENDITURES		<u>113,134</u>

ENDING CASH BALANCE ON JUNE 30, 2006 \$ 158,537

**MARK GIBSON, DISTRICT ATTORNEY
DISTRICT 8
SCHEDULE OF FINDINGS AND RESPONSES
JUNE 30, 2006**

Finding 2006-1 – DAC Report (Kay County)

Criteria: According to 63 O.S. § 2-506. L.3, "The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council;..."

The overall goal of effective internal controls is to demonstrate accountability and stewardship. To help ensure a proper accounting of funds, a written reconciliation should be performed between the Drug Asset Forfeiture Annual Report and the Treasurer's Official Depository Ledger.

Condition: The FY06 Drug Asset Forfeiture Report submitted to the Board of County Commissioners (BOCC) and the District Attorney's Council (DAC) was not accurate.

Effect: Inaccurate information has been submitted to the BOCC and DAC.

Recommendation: OSAI recommends a written reconciliation be performed between the Drug Asset Forfeiture Annual Report and the Treasurer's Official Depository Ledger to ensure accuracy of the report.

Views of responsible officials and planned corrective actions: An amended report has been submitted.

Finding 2006-2 – Receipts (Kay and Noble Counties)

Criteria: Title 28 O.S. § 9 states, "Every officer charging fees shall give a receipt therefor."

Condition: Three property forfeiture cases (CJ-01-16, CV-04-6 and CS-05-53) reviewed did not include a documented receipt for the seized money.

Effect: Not issuing a receipt increases the risk of misappropriation and unaccountability for fees charged.

Recommendation: OSAI recommends receipts be written for all seized and forfeited property.

Views of responsible officials and planned corrective actions:

Mark L. Gibson—District Attorney

I have received a copy of your findings as to the Property Forfeiture funds for Kay & Noble Counties. I understand your findings and will take appropriate action to address them.



**OFFICE OF THE STATE AUDITOR AND INSPECTOR
2300 N. LINCOLN BOULEVARD, ROOM 100
OKLAHOMA CITY, OK 73105-4896**

WWW.SAI.STATE.OK.US