



Oklahoma County Court Clerk Agreed-Upon Procedures Bail Bond Forfeitures January 1, 2002 – April 23, 2004

JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Report Summary:

✓ Court case docket entries and case files were reviewed from January 1, 2002 through April 23, 2004, to determine compliance with 59 O.S. Supp. 2002, § 1332, 22 O.S. 2001, § 1108, and Court Clerk bond forfeiture procedures.

Why the audit was performed

The Oklahoma County Court Clerk requested the Agreed-Upon Procedures on May 11, 2004, to determine compliance with Bail Bond Forfeitures.

- From January 1, 2003 to December 31, 2003, the Oklahoma County Court Clerk processed 2,117 bond forfeitures for a collection total of \$457,253. From January 1, 2002 to April 23, 2004, a sample of 211 bond forfeitures were tested to determine if bond forfeiture procedures were being followed. Of that sample, a possible \$425,000 was not collected as a result of the following:
 - 1) There were twenty-eight (28) forfeitures totaling \$216,000 in which the order and judgment of forfeiture was not mailed within the thirty-day time limit.
 - 2) For case CF-2000-5010 the order and judgment of forfeitures was issued on August 2, 2002, for the wrong amount of the bond. A new order and judgment of forfeiture was filed on December 12, 2002, for the correct bond amount; however this was after the thirty-day time frame: therefore, the bond forfeiture totaling \$111,000 was exonerated by operation of law.
 - 3) For two (2) bond forfeitures totaling \$6,000 the Office of the Oklahoma County Court Clerk did not notify the Office of the State Insurance Commissioner that bond money had not been paid in a timely manner.
 - 4) We reviewed four (4) felony cases totaling \$16,500, in which own recognizance (OR) bonds were forfeited. We noted the Oklahoma County Court Clerk's office did not attempt to collect an amount equal to the recognizance in these cases.
 - 5) There were six (6) cases in which it appears the bond forfeitures were still outstanding yet text entry by the Office of the Oklahoma County Court Clerk entered the bond as exonerated. Because of the text error, the bond forfeiture was dismissed/set aside by the Office of the State Insurance Commissioner. These forfeitures totaled \$21,500.
 - 6) We obtained four (4) court dockets printed from earlier dates reflecting text entries exonerating bonds. When the dockets were reprinted at time of audit, the text entry had been deleted by the Office of the Oklahoma County Court Clerk. These four (4) bond forfeitures totaling \$54,000 resulted in dismissal by the Office of the State Insurance Commissioner for those defendants.

To view a copy of the entire report, please visit our website at: www.sai.state.ok.us.

**PATRICIA PRESLEY
OKLAHOMA COUNTY COURT CLERK
AGREED-UPON PROCEDURES
BAIL BOND FORFEITURES
JANUARY 1, 2002 - APRIL 23, 2004**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

October 18, 2004

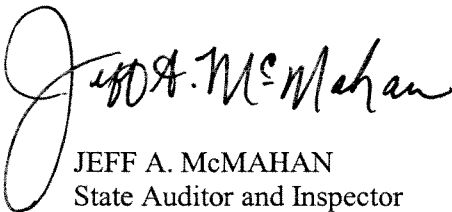
Patricia Presley
Oklahoma County Court Clerk

Transmitted herewith is the agreed-upon procedures report on bail bond forfeitures for the Court Clerk, Oklahoma County, Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our engagement.

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,


JEFF A. McMAHAN
State Auditor and Inspector



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

**INDEPENDENT AUDITOR'S REPORT
ON APPLYING AGREED-UPON PROCEDURES**

Patricia Presley
Oklahoma County Court Clerk
Oklahoma County Courthouse
Oklahoma City, Oklahoma 73102

We have performed the procedures enumerated below, which were agreed to by the Oklahoma County Court Clerk, solely to assist you in evaluating the policies and procedures followed by the Court Clerk and compliance with statutes relating to bail bond forfeitures. Management is responsible for compliance with statutory requirements and its policies and procedures relating to bail bond forfeitures. This agreed upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and attestation standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

The Office of Court Clerk in the State of Oklahoma was created by Article 17, § 2 of the Oklahoma Constitution. The primary responsibilities of the Court Clerk are to record, file, and maintain the proceedings of the District Court and to perform activities directed by the District Court. Among the Court Clerk's duties is the processing of bond forfeitures.

Title 59 O.S. Supp. 2002, § 1332 states, "If there is a breach of an undertaking, the court before which the cause is pending shall issue an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear."

As cited below, the statute also sets out the procedures that the Court Clerk's office must follow in the event of a forfeiture.

Title 59 O.S. Supp. 2002, § 1332 further states, "...In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the forfeiture, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's approval, or the order of forfeiture is vacated or set aside by the court. Failure of the clerk of the trial court to comply with the thirty-day notice provision in

this subsection shall exonerate the bond by operation of law. The order and judgment of forfeiture shall be on forms prescribed by the Administrative Director of the Courts. The bail bondsman shall have ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk or mailing of the notice if no receipt is made, to return the defendant to custody. When the court record indicates that the defendant is returned to custody in the jurisdiction where forfeiture occurred, within the ninety-day period, the court clerk shall enter minutes vacating the forfeiture and exonerating the bond. If the defendant has been timely returned to custody, but this fact is not reflected by the court record, the court shall vacate the forfeiture and exonerate the bond.”

Additionally, Title 59 O.S. Supp. 2002, § 1332 D states, “If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and if applicable, the insurer whose risk it is, shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs 2 through 5 of subsection C of this section. After the order and judgment has been paid, the bondsman and if applicable, the insurer, whose risk it is, may file a motion for remitter within one hundred eighty (180) days from receipt of the order and judgment of forfeiture, or mailing of the notice if no receipt is made, and upon the event the defendant is returned to custody within ninety (90) days after payment is due, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested...”

- **Review Court Clerk bond forfeiture procedures to determine compliance with 59 O.S. Supp. 2002, § 1332.**

We reviewed the Oklahoma County Court Clerk’s Bond Forfeiture Procedures to determine if the procedures were set up to comply with Title 59 O.S. Supp. 2002, § 1332. As a result of the review of the Bond Forfeiture Procedures no findings were noted.

- **Review case docket entries and case files for January 1, 2002 through April 23, 2004, to determine compliance with 59 O.S. Supp. 2002, § 1332 and Court Clerk bond forfeiture procedures.**

We obtained reports from the Office of the Administration of Courts from January 1, 2002 through April 30, 2004, and determined the Oklahoma County Court Clerk’s Office processed 5,050 bond forfeitures during this period. We reviewed a sample of 211 bond forfeitures for the following attributes:

- 1) That a notice was mailed within 30 days of the forfeiture with return receipt to the bondsman, and if applicable, the insurer.
- 2) That the order and judgment of the forfeiture was made on forms prescribed by the Administrative Director of the Courts.
- 3) That the forfeiture was set aside or vacated by court minutes.

- 4) That a copy of the court order/judgment is maintained in the case file.
- 5) That a copy of the notice to the Insurance Commissioner is maintained in the case file.

As a result of the procedures performed we noted the following:

- 1) There were twenty-eight (28) forfeitures totaling \$216,000 in which the order and judgment of forfeiture was not mailed within the thirty-day time limit.
 - 2) Orders and judgments of the forfeitures were made on forms prescribed by the Administrative Director of the Courts.
 - 3) The Office of the Oklahoma County Court Clerk issued two (2) bond forfeitures and exonerated eight (8) bonds, without explicit written Court orders of the dispositions of the bond forfeitures.
 - 4) Case files for CF-2000-5010 and CF-2000-1201 could not be located by the Office of Oklahoma County Court Clerk. Additionally, for case CF-2000-5010 the order and judgment of forfeiture was issued on August 2, 2002, for the wrong amount of the bond. A new order and judgment of forfeiture was filed on December 12, 2002, for the correct bond amount; however, this was after the thirty-day time frame; therefore, the bond forfeiture totaling \$111,000 was exonerated by operation of law.
 - 5) For two (2) bond forfeitures totaling \$6,000 the Office of the Oklahoma County Court Clerk did not notify the State Insurance Commissioner that bond money had not been paid in a timely manner.
- **Trace deletions/edits from the Administrative Office of the Courts' printout for January 1, 2002 through April 23, 2004, to determine reason/purpose for adjustment. Additionally, we were requested to determine whether edits were being posted after a twenty-four (24) hour period.**

We obtained query reports from the Administrative Office of the Courts for January 1, 2003 to April 30, 2004 to determine a pattern/reason for deletions. Per the reports, there were 12,842 deletions. No entries were made to the docket screen explaining the deletions and no source documentation was maintained in the case file. We were unable to determine a reason/pattern for the deletions. In addition, for calendar year 2003 cases we noted 71,410 edits were made to docket entries after a twenty-four (24) hour period. No entries were made to the docket screen explaining the edits and no source documentation was maintained in the case file. We were unable to determine a reason/pattern for the edits.

- **Determine if Court Clerk deputies are following policies and procedures for correcting/changing entries on case dockets.**

We noted the Oklahoma County Court Clerk's office does not have written policies and procedures designed to document purposes of deletions. However, we noted that in order to execute a deletion the deputy must have proper security authorization.

- **Determine if Administrative Office of the Courts' reports are available to examine for irregularities.**

We noted reports from Administrative Office of the Courts are available to the Oklahoma County Court Clerk to examine for irregularities.

During our review of bond forfeitures the following additional matters came to our attention:

Title 22 O.S. 2001, § 1108 states, "If the defendant neglects to appear according to the terms or conditions of the recognizance, bond or undertaking, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in court or before the magistrate may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the recognizance, bond or undertaking of bail, or the money deposited instead of bail, as the case may be, is and shall be thereupon declared forfeited and forfeiture proceedings shall then proceed as prescribed in Section 1332 of Title 59 of the Oklahoma Statutes. If money deposited instead of bail be so forfeited, the clerk of the court or other officer with whom it is deposited, must, immediately after the final adjournment of the court, pay over the money deposited to the county treasurer."

1. We reviewed four (4) felony cases totaling \$16,500, in which own recognizance (OR) bonds were forfeited. We noted the Oklahoma County Court Clerk's Office did not collect an amount equal to the recognizance in these cases. In addition, two (2) of the four (4) cases reviewed were not posted to the docket screen.
2. It was noted in seven (7) cases the Office of the Oklahoma County Court Clerk did not maintain copies of response pleadings in the case file nor did they enter the response pleadings into the Oklahoma Court Information System.
3. There were six (6) cases in which it appears the bond forfeitures were still outstanding yet text entry by the Office of the Oklahoma County Court Clerk entered the bond as exonerated. Because of the text error, the bond forfeiture was dismissed/set aside by the Office of the State Insurance Commissioner. These forfeitures totaled \$21,500.
4. We obtained four (4) court dockets printed from earlier dates reflecting text entries exonerating bonds. When the dockets were reprinted at time of audit, the text entry had been deleted by the Office of the Oklahoma County Court Clerk. We were unable to determine whether the court dockets were supported by text entries to support the exoneration. These four (4) bond forfeitures totaling \$54,000 resulted in dismissal by the Office of the State Insurance Commissioner for those defendants.
5. Based on reports obtained from the Administrative Office of the Courts for calendar year 2003, there were 1,079 unsupported docket entries that reflected only the docket code "text". The rest of entry was blank.

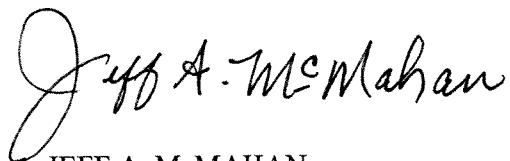
We were not engaged to and did not conduct an examination or a review of bail bond forfeiture procedures, the objectives of which would be the expression of an opinion or limited assurance on bail bond forfeiture procedures. Accordingly, we do not express such an opinion or limited assurance. Had we performed additional procedures, other matters might have come to our attention that would have been reported.

The American Institute of Certified Public Accountants' Statement on Auditing Standards No. 87 requires the inclusion of the following paragraph in this report.

This report is intended solely for the information and use of the Oklahoma County Court Clerk and is not intended to be and should not be used by anyone other than these specified parties.

However, the Oklahoma Open Records Act states that all records of public bodies and public officials shall be open to any person, except as specifically exempted. The purpose of the Act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. Therefore, this report is a matter of public record and its distribution is in no way limited or restricted.

Sincerely,

A handwritten signature in black ink that reads "Jeff A. McMahon". The signature is written in a cursive style with a large, looping initial "J".

JEFF A. McMAHAN
State Auditor and Inspector

July 30, 2004