

POTTAWATOMIE COUNTY DRUG COURT

JANUARY 1, 2007 THROUGH
JANUARY 1, 2008

SPECIAL AUDIT



Jeff A. McMahan

Oklahoma State Auditor
& Inspector



Pottawatomie County Drug Court Special Audit Report January 2007 – January 2008

JEFF A. McMAHAN, CFE
OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The District Attorney
requested the audit pursuant to
74 O.S. 2001 § 212(H).

Audit Summary:

- ✓ Receipts issued in the amount of \$1,149.00 are unaccounted for. **Page 7.**
- ✓ Funds collected were not deposited daily in accordance with state law. **Page 8-9.**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

March 6, 2008

Honorable Richard Smothermon
District Attorney – District No. 23
331 N. Broadway
Shawnee, Oklahoma 74801

Transmitted herewith is the Special Audit Report of the Pottawatomie County Drug Court. We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 212(H)**.

A report of this type tends to be critical in nature; however, failure to report commendable features in the present accounting and operating procedures of the entity should not be interpreted to mean they do not exist.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.
Deputy State Auditor and Inspector

TABLE OF CONTENTS

	PAGE
DRUG COURT TEAM MEMBERS	4
STATE AUDITOR AND INSPECTOR'S REPORT	5
INTRODUCTION	6
CONCERNS, FINDINGS, AND RECOMMENDATIONS	7

INDEX OF SPECIFIC CONCERNS

	PAGE
I CONCERN: MISAPPROPRIATION OF PUBLIC FUNDS.....	7

DRUG COURT TEAM MEMBERS

District Attorney..... Richard Smotherman
JudgeJudge Douglas Combs
Defense AttorneyPamela Stephens
Administrative Coordinator..... Anita Longey



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Ms. Anita Longey, Administrative Coordinator
Pottawatomie County Drug Court
316 N. Broadway, Ste G
Shawnee, Oklahoma 74801

Dear Ms. Longey:

Pursuant to the District Attorney's request and in accordance with the requirements of **74 O.S. 2001, § 212(H)**, we performed a special audit with respect to the Pottawatomie County Drug Court, for the period January 1, 2007 through January 1, 2008.

The objectives of our special audit primarily included, but were not limited to possible misappropriation of public funds. Our findings and concerns related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Pottawatomie County Drug Court. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Pottawatomie County Drug Court.

This report is intended solely for the information and use of the Pottawatomie County Drug Court Team and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**; and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.
Deputy State Auditor and Inspector

January 10, 2008

INTRODUCTION

The Pottawatomie County Drug Court Program ("Drug Court") was established in 1989 and is authorized under **Oklahoma State Statutes 22 § 471.1**. A four-member team, which includes the Pottawatomie County District Attorney, District Judge, a local attorney for defense representation, and an administrative coordinator, contract with the Oklahoma Department of Mental Health on an annual basis.

The Drug Court program serves as an alternative to the traditional judicial system. **Oklahoma State Statutes 22 § 471.1D** states, in relevant part:

Drug court programs shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution systems.

A 2007 publication by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) describes the Oklahoma Drug Court System as follows:

Coordinated by ODMHSAS, drug courts redirect qualified participants into a structured judicially monitored substance abuse treatment program. The average per year cost for a drug court participant is \$5,000. It costs the state \$16,000 or more per year to house an individual in the prison system.

The goal of the Pottawatomie County Drug Court is to stop drug abuse and related criminal activity, by using Court supervised treatment that offers offenders a compelling alternative to criminal behavior that stems from drug abuse.

The District Attorney for Judicial District 23, including Pottawatomie and Lincoln Counties, requested we perform an investigative audit of the Pottawatomie County Drug Court concerning the possible misappropriation of public funds.

**POTTAWATOMIE COUNTY DRUG COURT
SPECIAL AUDIT REPORT
JANUARY 2007 THROUGH JANUARY 2008**

CONCERN:

- **Misappropriation of public funds.**
-

FINDINGS:

- **Receipts were issued for \$1,149.00 that cannot be accounted for.**
 - **Deposits were not made daily in accordance with state law.**
 - **Receipts do not clearly identify the types of money being collected.**
 - **A lack of internal control concerning the collection and deposit of funds.**
-

Receipts were issued for \$1,149.00 that cannot be accounted for.

We were provided receipt and deposit records for the period from January 1, 2006 through January 1, 2007. We examined these records and determined funds, totaling \$1,149.00, are missing and unaccounted for.

Month	Exception Amount
January	\$0.00
February	\$0.00
March	\$20.00
April	\$0.00
May	\$0.00
June	\$0.00
July	\$210.00
August	\$100.00
September	\$130.00
October	\$0.00
November	\$110.00
December	\$579.00
Total	\$1,149.00

The missing funds resulted from either the total amount of funds collected not being deposited or from not accounting for all receipted funds.

For example, during the period from August 13, 2007 through August 18, 2007, sixteen (16) receipts were issued reflecting a total collection amount of \$1,535.00. The corresponding deposit amount was \$1,435.00, a difference of \$100.00.

Similarly, between September 13, 2007 and September 19, 2007, ten (10) receipts were issued reflecting a total collection amount of \$1,790.00. The corresponding deposit amount was \$1,660.00, a difference of \$130.00.

This method, commonly called "shorting", occurred seven (7) times between March and December 2007 for a total of \$759.00 that was receipted, not deposited and is missing, as shown in the table at right.

In addition to deposits being shorted, we also noted four (4) instances where receipts were issued but were not included as part of the deposit. These four (4) instances, which occurred in July (3) and December (1), totaled \$390.00.

Shorting Deposits	
March	\$20.00
August	\$100.00
September	\$130.00
November	\$110.00
December	\$240.00
December	\$100.00
December	\$59.00
Total	\$759.00

We noted, for example, the December 21, 2007 deposit included funds received from receipts 4181 through 4187. The next subsequent deposit, made on January 2, 2008, included receipts 4190 through 4198.

Receipts 4188 and 4189 were issued for \$30.00 and \$150.00, respectively, and were not included in either deposit.

Any other use of the funds other than depositing them into the proper depository accounts appears to violate **21 O.S. § 341** and **21 O.S. § 1451**, which state, respectively:

Every public officer of the state or any county, city, town, or member or officer of the Legislature, and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state or any bureau or fund created by law and in which this state or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer's or person's hands or money to be raised through an agency for state, city, town, district, or county purposes; or

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the state, city, town, district or county, or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than twenty (20) years and, in addition thereto, the person shall be disqualified to hold office in this state, and the court shall issue an order of such forfeiture, and should appeal be taken from the judgment of the court, the defendant may, in the discretion of the court, stand suspended from such office until such cause is finally determined.

21 O.S. § 1451

A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds "held in trust" for any purpose;

* * *

4. Where the property is to be used for a public or benevolent purpose[.]

Deposits were not made daily in accordance with state law.

We noted many deposits were made days, and on some occasions, weeks after the funds were collected and receipted. For example, receipt number 3280 was issued on January 5, 2007 although the funds were not deposited until January 17, 2007, a span of twelve (12) days. Additional funds were receipted on January 8th, 9th, 10th and 12th and were not deposited until January 17, 2007. Other examples include:

- Funds collected on February 6th and 7th were not deposited until February 12th.
- Funds collected on April 9th were not deposited until April 19th.
- Funds collected on June 15th were not deposited until June 26th.

The failure to deposit public funds daily appears to violate **62 O.S. 517.3(B)**, which states, in part:

The treasurer of every public entity shall deposit daily, not later than the immediately next banking day, all funds and monies of whatsoever kind that shall come into the possession of the treasurer by virtue of the office[.]

Receipts do not clearly identify the types of money being collected.

In July 2005 we published, "Recommended Drug Court Accounting Procedures", as a recommended method of ensuring the safety and security of public funds. We recommended, among other things, that all funds collected be receipted and all receipts include the manner and method of payment, such as cash, money orders and checks.

Drug Court accepts two forms of payment, cash and/or money orders. Drug Court uses books of pre-printed and pre-numbered receipts. Each receipt includes an area to denote the method of payment as either "cash" or "money order".

We noted many of the receipts did not reflect either method of payment. We have provided a copy of our recommended procedures, published in 2005, and also recommended, during our fieldwork, that all receipts be clearly marked as to the method of payment received.

There is a lack of internal control concerning the collection and deposit of funds.

Prior to our audit engagement, the person making the deposits completed no deposit forms (other than an adding machine tape), and there was no record generated by Drug Court personnel attesting to the deposit amounts.

In our 2005 publication, we recommended the use of an official depository ticket, which included, among other elements, the name of the person creating the deposit ticket. We provided a copy of our publication to the Drug Court Administrator.

Prior to the conclusion of our audit, the Drug Court Administrator advised us the depositing procedures had been changed.

RECOMMENDATIONS: We recommend the Drug Court administration adopt internal controls and policy and procedures, sufficient to ensure that all funds collected and receipted are properly deposited

We recommend the District Attorney review these findings to determine what action may be necessary.

* * *

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the District Attorney and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that the Drug Court or any of the individuals named in this report or acting or acting on behalf of the Drug Court have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the Drug Court's policies, procedures or practices should be modified or discontinued, and to independently evaluate where or not the recommendations made by this Office should be implemented.



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