



SEMINOLE COUNTY SHERIFF'S OFFICE

Special Investigative Audit

February 27, 2024

Cindy Byrd, CPA
State Auditor & Inspector

Seminole County Sheriff's Office

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EXECUTIVE SUMMARY



Seminole County Sheriff's Office Investigative Audit Report

WHY WE DID THIS AUDIT

Under 74 O.S. § 212(H), the District Attorney requested the Oklahoma State Auditor & Inspector's (SA&I) office conduct an audit of the Seminole County Sheriff's Office. The audit period encompassed December 1, 2016 through November 10, 2022, but was extended to include key information when necessary.

The objectives of the audit were to determine whether public funds entrusted to the Seminole County Sheriff's Office were properly accounted for and to identify any missing funds during the audit period.

WHAT WE FOUND

During the Seminole County Regulatory Audit for the FYE¹ June 30, 2021, SA&I noted undeposited cash funds from the Inmate Trust kiosk located in the lobby of the Seminole County Jail. SA&I met with the county sheriff's office on October 26, 2022, to discuss the missing kiosk cash deposits and other segregation of duties concerns. Sheriff Shannon Smith immediately contacted the software provider for the kiosk accounting system and had Office Manager Megan Burgess' user rights suspended. SA&I then expanded the objectives of our investigation to include other areas within the county sheriff's office that involved cash collections, weak internal controls, and little to no oversight by management.

Introduction and Oversight (Pages 1 - 6)

Over the past 12 years, the county sheriff's office has failed to recognize and/or act on instances where the suggested lack of internal controls and noncompliance concerning the Inmate Trust Fund Checking Account and Sheriff Commissary Fund were brought to their attention as part of SA&I's annual financial audit process.

Inmate Trust Fund Checking Account (Pages 7 - 9)

The county sheriff's office failed to establish effective internal controls and comply with statute regarding the daily depositing of funds. This enabled Office Manager Megan Burgess to collect the cash from the kiosk, prepare the deposit, and take the deposit to the bank with no accountability or oversight. ***Between December 1, 2016 and November 10, 2022, there was \$187,340 of cash collected from the kiosk by Burgess that was misappropriated.***²

¹ FYE – Fiscal Year Ending

² Burgess was confirmed to be a member of the Seminole Nation. The investigation of funds missing from the Inmate Trust Checking Account has been referred to federal law enforcement authorities.

Sheriff's Line of Credit Checking Account (Pages 10 - 12)

The county sheriff's office operated an unofficial checking account for travel expenses utilizing a debit card that did not comply with statute or county travel policy. There were also questionable reimbursements made for travel expenses incurred on the card that lacked supporting documentation or evidence of the legitimate business purpose of the expense.

Seminole County Deputy Fund Checking Account (Pages 13 - 19)

The Seminole County Deputy Fund operated a nonprofit entity within the county sheriff's office utilizing county personnel and county equipment during normal business hours. It was also noted that:

- The county sheriff's office comingled county funds with nonprofit funds in the amount of \$8,377.
- Undocumented ATM and cash withdrawals were made totaling \$21,329.
- Loan proceeds were issued to the sheriff, undersheriff, and a sheriff deputy totaling \$10,500.
- Expenditures not supported by adequate documentation were made totaling \$88,867.
- A promissory note was issued to the undersheriff in the amount of \$1,200.

Donations totaling \$95,870 were deposited and credited to the benefit of the Deputy Fund. However, there was not adequate supporting documentation available to determine if the donations were for the benefit of the Deputy Fund or the Seminole County Sheriff's Office. None of the donations were properly accepted by the Board of County Commissioners (BOCC) as required by statute.

Sheriff's Commissary and Phone Card Revenues and Expenditures (Pages 20 - 22)

Profits from the sale of commissary items and phone cards were not transferred to the proper county funds totaling \$206,022. These amounts should have been transferred into the Sheriff's Commissary Fund and the Sheriff Service Fee fund for purchases as allowed by statute.

Proper purchasing procedures were not followed regarding the payment of invoices to commissary and food vendors. Finance charges were incurred totaling \$15,826 resulting from 72 invoices that were not timely paid.

Subsequent Events

The District Attorney sent a letter on March 10, 2023, to the Attorney General's Office requesting a recusal from the potential prosecution from the results of this investigation. This request was granted on April 27, 2023.

On August 22, 2023, pursuant to a Deferred Prosecution Agreement with the Attorney General's Office, Sheriff Smith agreed to resign his position as sheriff, repay \$2,566 in restitution relating to improper payments or loans he received from the Deputy Fund, and a two-year suspension of his law enforcement credentials with the Council on Law Enforcement Education and Training (CLEET). Undersheriff Matt Haley resigned effective August 21, 2023.



February 27, 2024

TO THE CITIZENS OF SEMINOLE COUNTY, OKLAHOMA

Presented herein is the investigative audit report of the Seminole County Sheriff's Office. The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office by the agencies and individuals who assisted in our investigation.

This report is a public document pursuant to the Open Records Act, 51 O.S. §§ 24A.1, *et seq.* and is available to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Byrd".

CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR

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Chapter 1

Introduction and Oversight

Introduction

Inmate Trust Fund Checking Account/Sheriff Commissary Fund

The county sheriff is authorized to operate a commissary for the benefit of the inmates incarcerated in the county jail. A commissary is a “store” with provisions available for the inmates to purchase. The inmate may establish an account with the county sheriff’s office or jail by depositing funds into an account called the Inmate Trust Fund Checking Account. The inmate may use the account balance to purchase items available for sale in the commissary. SA&I Form 4078-INS was created to facilitate the standard operating procedures to aid counties in establishing procedures for proper internal controls regarding the Inmate Trust Fund Checking Account and Sheriff Commissary Fund.

Since the Inmate Trust Fund Checking Account is a bank account maintained separately from the County Treasurer and County Clerk’s office, the funds are at a substantially higher risk of fraud and/or errors occurring without early detection. Therefore, it is extremely important to implement proper internal controls over receipts, disbursements, and bank reconciliations.

Checks issued from the Inmate Trust Fund Checking Account which remain uncashed for over six months, may be forfeited to the county sheriff’s office to be utilized for training upon an order issued by the District Court.³ The county sheriff’s office is also authorized⁴ to contract for commissary operations. This contract should be approved by the Board of County Commissioners (BOCC) in a public meeting and be between the county and the vendor for commissary services. The county sheriff is involved in the selection of the vendor but should not enter into a contract for services individually. The BOCC represents the county and is responsible for approving all contracts.⁵

When a contract for commissary goods is approved, the software system used by the contractor must be utilized by the county sheriff’s office or jail to account for the inmate account balances, deposits, transfers to the Sheriff Commissary Fund, and release of funds to inmates. The sheriff should maintain these records and the bank account associated with the Inmate Trust Fund Checking Account.

Statute⁶ allows for the operation of a commissary and requires an annual financial report to be filed with the BOCC. SA&I Form 4078 was created to facilitate the calendar year financial reporting for counties that operate a commissary internally and/or for counties that contract for commissary operations. The Commissary Financial Report should be signed by the preparer and approved by the sheriff (or designated supervisor). The report is presented to the BOCC in an open meeting. Once accepted, reviewed, and signed by the BOCC, it is filed with other BOCC related documents in the Office of the County Clerk. SA&I recommends a copy of the signed report be obtained and kept with other commissary records. SA&I reviews this document to determine if it reconciles to the County Treasurer and County Clerk records.

³ 22 O.S. § 1325

⁴ 19 O.S. § 180.43D

⁵ 19 O.S. § 3

⁶ 19 O.S. § 180.43D

Sheriff Credit Card & Travel Expenses

Subject to limitations and procedures provided by statutes, any county sheriff or deputy sheriff may purchase materials, supplies, or services necessary for travel, outside of the county, using one or more credit cards issued to the county for use by the county sheriff's department.

Purchases made with credit cards are limited to actual expenses for travel outside of the county by the county sheriff or deputies to perform their official duties, except that the credit cards may also be used to purchase fuel within the county on weekends, nights, or holidays when fuel cannot be obtained from the fuel vendor to whom a bid for fuel purchases has been awarded.

The county sheriff may request the BOCC to apply for credit cards for use by the sheriff's department. The application must be made in the name of the county, and any credit cards issued must be in the name of the county only. The BOCC releases the cards to the county sheriff's office⁷ and the sheriff is responsible for the proper use of the cards.

For each card issued, the county shall encumber sufficient funds each month to pay for the estimated charges to be made from the annual county appropriation to the county sheriff's department. Payment of the bill for charges incurred on any card must be made in a timely manner so that no interest charges or penalties accrue and so that the total payment amount corresponds to the balance of charges for purchases in addition to any applicable annual fee or service charge.⁸ All receipts for charges must be returned to the BOCC to support the total monthly expenditures.⁹ A county sheriff or deputy sheriff shall not receive any reimbursement for any expenses for which a credit card was used.¹⁰

On or before the 25th day of each month, the county sheriff must notify the BOCC of the anticipated credit card expenditures for the following month. When credit purchases are made, the county sheriff or deputy sheriff must immediately and accurately document all expenditures on SA&I Form 112, attaching all receipts and a written explanation of each expenditure as to the date, case number, or other identification number, area or location, reason for expenditure, and amount expended. The original form must be attached to the purchase order and be submitted to the BOCC for final approval and payment. All forms must be approved by the county sheriff and a copy of the form must be retained for the county sheriff's records.¹¹

The number of credit cards and the amount of charges allowed for credit cards issued by counties is limited. For Seminole County, a county with a population of less than 50,000, no more than two cards can be issued, with an aggregate amount of credit for all cards not to exceed \$5,000.¹²

In addition to the use of credit cards for out-of-county transport of prisoners and investigations, a county sheriff or deputy sheriff may use a credit card to pay the costs of out-of-county travel to attend voluntary law enforcement instruction and training.¹³

⁷ 19 O.S. § 1506(B)

⁸ 19 O.S. § 1506(C)

⁹ 19 O.S. § 1506(D)

¹⁰ 19 O.S. § 1506(F)

¹¹ 19 O.S. § 1506(E)

¹² 19 O.S. § 1507(A)(1)

¹³ 2019 OK AG 11

Early Indicators of Potential Issues

Finding ***The county sheriff's office failed to recognize and/or act on reported instances of the 'Lack of Internal Controls and Noncompliance' concerning the Inmate Trust Fund Checking Account and Sheriff Commissary Fund brought to their attention by SA&I over the past 12 years. Also, during this investigation, there was an instance of unauthorized access to restricted areas within the county sheriff's office by then Office Manager Megan Burgess who was suspended at the time of the incident.***

On July 7, 2009, SA&I released the *Officer Turnover Audit Report of the County Sheriff's Office* dated March 12, 2009. This audit was requested to determine if there were any issues that needed to be addressed by Sheriff Shannon Smith who was appointed by the BOCC as sheriff on February 23, 2009. Beginning with this report through June 30, 2020, SA&I performed the annual regulatory audit of Seminole County which included the county sheriff's office. Several instances of internal control weaknesses and noncompliance were noted in each report. Management responded to the reported instances of noncompliance and acknowledged the corrective action to be taken; however, no corrective action was ever taken.

The county sheriff's office has not maintained an adequate segregation of duties to ensure that tasks assigned to individuals are done so in a manner that would not allow one individual to control both the processing and recording of a transaction. Over the past 12 years, reported findings of internal control weaknesses and noncompliance with statutes regarding the Inmate Trust Fund Checking Account consisted of the following:

- One employee collects cash from the lockbox and kiosk, counts the cash and posts to accounts in the inmate trust software system, prepares the bank deposit, takes the deposits to the bank, and maintains all bank records.
- Postings to the Inmate Trust Fund software system are not reconciled to the bank deposits.
- Bank reconciliations are not performed on the Inmate Trust Fund Checking Account.
- Individual Inmate Trust Fund balances are not being reconciled to the bank statements.
- There is no process for tracking or reconciling unclaimed funds.
- Collections are not deposited daily.
- An annual report for the Sheriff Commissary Fund was not prepared and filed with the Board of County Commissioners.
- One employee has access to phone card stock, receives phone card orders from inmates, issues phone cards to be disbursed, deducts phone card sales from inmate accounts, orders card stock, and maintains all phone card records.
- An inventory of phone cards and a log of phone cards sold to inmates is not maintained.

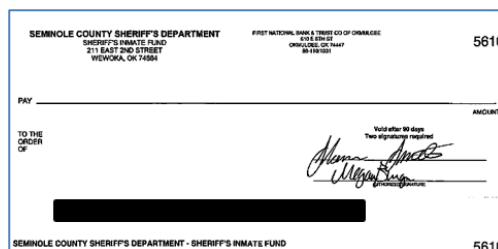
- Original receipts are not being retained for all receipts that are voided.
- No documentation was retained to verify that phone services, health services, and commissary contracts were renewed annually.
- Commissions are not being transferred into the Sheriff Commissary Fund.
- Checks are being issued to the vendor for commissary items, rather than transferring funds to the Sheriff Commissary Fund and paying for items purchased through the proper purchasing procedures.

These findings, occurring over a twelve-year period, reflected a scenario of financial mismanagement, undeposited funds, questionable expenditures, and an overall lack of internal controls. Instead of taking the appropriate measures to correct the concerns, they were left uncorrected, resulting in an environment that was conducive for the misappropriation of assets.

During the Audit

During our investigation, Office Manager Megan Burgess was suspended and placed on administrative leave due to missing cash from the kiosk. On December 1, 2022, SA&I was unable to obtain records from Burgess' desk due to her having the only key. SA&I returned to the sheriff's office on December 5, 2022, and the keys had not yet been returned. Later that day the sheriff drilled out the locks on the desk to allow SA&I access to records.

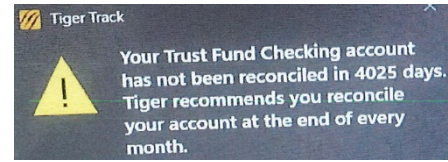
The desk contained two bank bags, two debit cards associated with Sheriff Smith's line of credit account, three deposit books, several fuel cards, several sets of keys, unopened bank statements, unopened invoices from vendors, and unopened checks that had not been deposited. There were also two blank checks for the Inmate Trust Fund Checking Account signed by Sheriff Smith and Burgess, along with a signature stamp and a sticky note containing usernames and passwords for the sheriff's county and personal email accounts. Sheriff Smith took custody of the signature stamp and the sticky note prior to SA&I obtaining a copy.



SA&I went to the county sheriff's office on February 9, 2023, for additional information and interviews. Upon entering the office, SA&I noted that Burgess, who had previously been suspended, was standing outside the employee entrance with current sheriff's office employees. Later in the day SA&I noticed Burgess was in the restricted area of the sheriff's office eating lunch with the Jail Administrator who was now assigned office manager duties. SA&I reported this incident to the sheriff and undersheriff.

Audit Obstacles

The primary obstacle to this investigation was the inability to locate records that were required to be maintained under the full responsibility of the county sheriff's office. Inmate Trust Fund Checking Account records were not consistently maintained or updated, and the bank statements had never been reconciled to the inmate trust software program.



Sheriff Smith utilized an unlawful line of credit checking account with a debit card attached for his travel expenses. The account was not included on the county's general ledger. The only receipts or supporting documentation available were those obtained from the county clerk's office when reimbursements for expenses were requested and paid with county funds into the line of credit checking account.

The Seminole County Deputy Fund was created as a non-profit entity operated by sheriff's office personnel. The non-profit maintained a separate bank account which included monies comingled with county funds obtained through reimbursements which appeared to have been requested to circumvent county purchasing procedures. There was no official location, or designated accountant to keep track of their records, it was difficult to obtain any records or contact former employees that may have had some knowledge or access to records. Undersheriff Matt Haley provided a two-drawer filing cabinet that was unorganized and contained limited documentation. Additionally, we were unable to obtain any electronic records concerning the Seminole County Deputy Fund.

SA&I spent approximately 200 hours sorting and categorizing records from the documents obtained. Most records came electronically from the software vendor, the bank, or through the county clerk's office.



Chapter 2

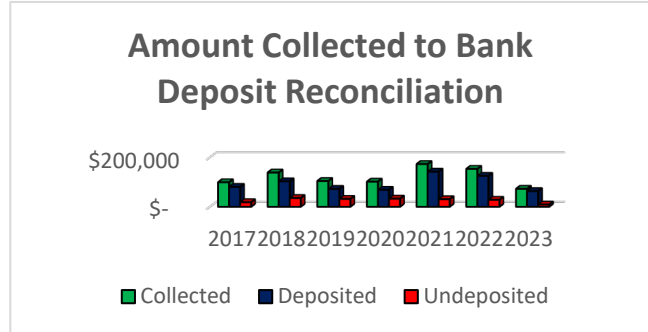
Inmate Trust Fund Checking Account

- *Undeposited Cash Collected from the Kiosk*
- *Not Depositing Daily as Required by Statute*

Deposits for Inmate Trust Fund Checking Account

Funds deposited into the Inmate Trust Fund Checking Account were generated from credit card transactions and cash payments inserted into the kiosk located in the lobby of the jail and cash collected by deputies in the booking area when an arrestee was processed.

Cash collected by deputies during the booking process was placed in a lockbox and retrieved by Burgess, who counted the cash and logged the inmate's information into the software program if the inmate was a repeat offender. If not a repeat offender, Burgess would create an account, document the information on an envelope and provide a receipt to the inmate in a property bag.



The cash would then be placed in a bank bag and returned to the lockbox until a deposit was made. Burgess would retrieve the cash from the kiosk located in the lobby, take the cash to her office where it would be counted and prepared for deposit. The kiosk funds and the money from the lockbox were then taken to the bank for deposit. Deposits were usually made twice a week.

There was no documentation or evidence of any review or approval throughout the cash handling process. Burgess had sole control of all kiosk money, there was only one key to the kiosk and the lockbox, and both were maintained in a locked drawer in her office.

Finding ***From December 1, 2016 through November 10, 2022, undeposited cash totaling \$187,340 was misappropriated from the sheriff's office kiosk by Office Manager Megan Burgess.***

Cash consolidation reports obtained from the kiosk software vendor were analyzed and reconciled to the bank statements to determine if cash collected was properly and timely deposited. Between December 1, 2016 and November 10, 2022, \$842,845 in cash was collected at the kiosk and \$655,505 in cash was deposited into the Inmate Trust Fund Checking Account, resulting in a misappropriation of cash by Office Manager Megan Burgess totaling **\$187,340**.

The sheriff's office failed to establish effective internal controls and comply with statute regarding depositing daily. As a result of no segregation of duties, Burgess autonomously controlled the cash collected from the kiosk

Kiosk Report to Bank Reconciliation			
Period	Collected	Deposited	Undeposited
FYE 2017 ¹⁴	\$ 99,220	\$ 80,478	\$ 18,742
FYE 2018	\$138,620	\$103,127	\$ 35,493
FYE 2019	\$104,303	\$ 72,435	\$ 31,868
FYE 2020	\$101,701	\$ 68,619	\$ 33,082
FYE 2021	\$172,941	\$142,170	\$ 30,771
FYE 2022	\$153,348	\$125,113	\$ 28,235
FYE 2023 ¹⁵	\$ 72,713	\$ 63,564	\$ 9,149
Total	\$842,846	\$655,506	\$187,340

¹⁴ December 1, 2016 – June 30, 2017

¹⁵ November 10, 2022 – June 30, 2023

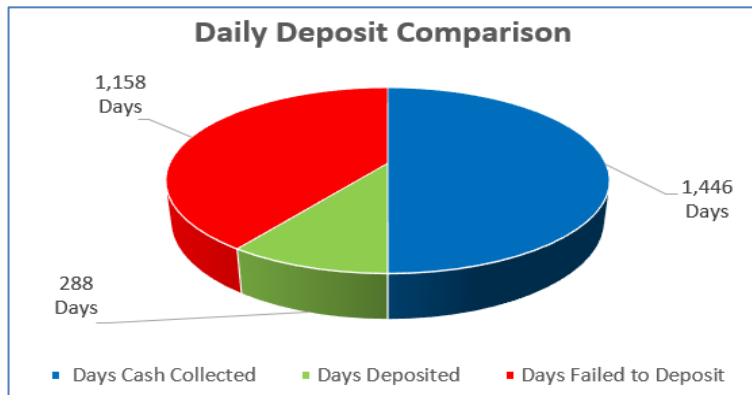
and was able to prepare deposits and take the deposit to the bank with no accountability or oversight.

Finding ***Deposits were not made daily as required by statute.***

Cash deposits pertaining to the Inmate Trust Fund Checking Account were not deposited daily as required by statute. In accordance with 19 O.S. § 682,

It shall be the duty of each and every county officer [...] and all members and employees [...] to deposit daily.

Between December 1, 2016 and November 10, 2022, there were 1,446 days in which receipts were issued for the Inmate Trust Fund Checking Account. Deposits were only made on 288 of those days which resulted in 1,158 days in which cash was receipted into the kiosk or lockbox, but a deposit of cash was not made at the bank. All cash collected should have been deposited daily as required by statute.





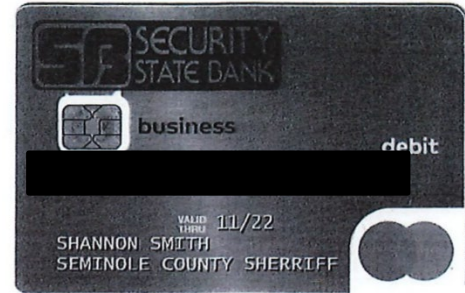
Chapter 3

Sheriff's Line of Credit Checking Account

- *Unauthorized Checking Account for Travel Expenses*
- *Questionable Reimbursements for Travel Expenses*

Sheriff's Line of Credit Checking Account - Overview

On January 29, 2016, Sheriff Smith opened an unauthorized checking account for his out-of-county travel. Smith was the only authorized signer on the account and a debit card was issued in his name. This account was established with the county's employer identification number (EIN) and the sheriff's office address. The account was not recorded in the county's general ledger.



On January 4, 2016, the BOCC approved for the sheriff's office to open a line of credit checking account contingent upon approval from the District Attorney's office. No documentation of this approval was provided. Purchase Order #2996 was issued in the amount of \$5,000 from the Sheriff-ST (Sales Tax) fund on January 29, 2016, and a deposit was made into the sheriff's line of credit checking account.

Motion Monks, second Kirby to approve and authorize the Sheriff's Department to open a line of credit account at Security State Bank contingent upon D.A.'s approval. Monks aye, Kirby aye, Choate aye. Motion carried.

This account was discovered by SA&I during the FYE 2019 and FYE 2020 Seminole County Regulatory Audits. An exit finding was communicated to Sheriff Smith on November 9, 2020, with a recommendation that the account be closed. Sheriff Smith emailed SA&I his acknowledgement and response on January 5, 2021, but the account continued to be utilized until October 26, 2022, when a cashier's check was issued to the county treasurer in the amount of \$3,733.91 to close the account. This amount was receipted into the Sheriff Service Fee Fund on October 27, 2022, but should have been deposited back into the sales tax fund where the money was originally disbursed from. Currently, there is an amount of \$1,266.09 which should be returned to the sales tax fund.

To utilize the line of credit, a purchase order would be encumbered for the estimated amount of travel expenses. Sheriff Smith would use the debit card for travel, upon returning, his receipts would be used to prepare a receiving report and the claim would be placed on the BOCC agenda for approval. Once the BOCC approved the payment, the warrant was given to the office manager who would then deposit the funds into the sheriff's Line of Credit Checking Account.

Finding ***Between January 29, 2016 and October 27, 2022, Sheriff Smith incurred 359 debit card transactions, totaling \$30,960, paid for through an improperly established line of credit checking account.***

Between the period of January 29, 2016 and October 27, 2022, when the line of credit checking account was closed, there were 359 transactions incurred totaling \$30,960. The entire use of this account for travel purposes circumvented statutory purchasing procedures and did not follow the county travel reimbursement policy. County travel policy allows individuals to submit travel expenses related to official county business for reimbursement. Sheriff Smith should have used a properly approved county credit card for travel expenses or submitted a request for travel reimbursement via the official SA&I Travel Form #1117.

The debit card used against the line of credit was issued in the name of Shannon Smith and not Seminole County as required by 19 O.S. § 1506(B) which states:

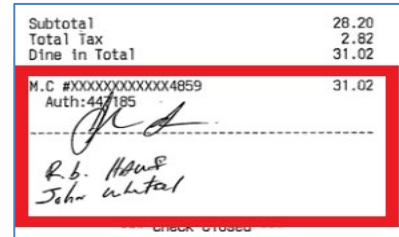
The sheriff may request the board of county commissioners of the county to apply for a credit card or cards for use by the sheriff's department. The application shall be made in the name of the county and any credit cards issued must be issued in the name of the county only. The board of county commissioners shall then issue the cards to the office of the sheriff. [emphasis added]

Finding *Purchase orders were paid to reimburse the line of credit checking account for items that did not comply with the county travel policy or that lacked documentation to support the official business purpose of the expense.*

Of the 90 purchase orders submitted for travel reimbursements from the line of credit checking account, fifty-seven (57) were for expenses that did not comply with the county travel policy, a total of \$27,953.05. Policy requires a meeting agenda or class certification letter be presented to document attendance at a conference or proof of overnight travel. There were also 33 purchase orders issued, prior to implementation of the county travel policy in 2022, that did not contain adequate documentation such as receipts, meeting agendas, purpose of the trip, etc. Policy, along with best practices would suggest that adequate documentation supporting attendance at any conference be presented for reimbursement.

Sixty-nine (69) purchase orders included receipts wherein state sales tax was paid totaling \$806. Statute exempts the payment of sales tax on sales of tangible personal property or services to any political subdivision of the state.¹⁶ If a credit card had been obtained in the name of the county and utilized for travel costs sales tax would not have been charged.

Thirteen (13) purchase orders totaling \$1,586.41 had receipts submitted for reimbursements that were for someone other than Sheriff Smith. This included one instance where a meal was purchased for a former Oklahoma County Sheriff and Payne County Sheriff.



¹⁶ 68 O.S. § 1356(1)



Chapter 4

Seminole County Deputy Fund Checking Account

- *Overview*
- *Nonprofit Entity Operating from the County Sheriff's Office*
- *ATM and Cash Withdrawals*
- *Checks Issued to the Sheriff, Undersheriff, and Other Employees*
- *Expenditures Not Supported by Adequate Documentation*
- *Promissory Note to the Undersheriff*
- *Use of County-Owned Equipment for Non-County Business*
- *Donations Lacking Support and Not Accepted by the BOCC*

Seminole County Deputy Fund - Overview

The Seminole County Deputy Fund (the Deputy Fund) is a nonprofit entity that was established in August 2014. The certificate of incorporation was filed with the Secretary of State; however, the official documents to operate as a 501(c)(3) were never filed with the Internal Revenue Service and tax-exempt status was never officially obtained. The Deputy Fund's defined purpose per their certificate of incorporation was to "provide additional funding and monetary assistance for the training, education and professional development of Seminole County law enforcement officers." The by-laws of the Deputy Fund expanded the purpose to "promote the concept of philanthropy to worthy community endeavors, provide a convenient structure for gifts and donations, and collect and disburse funds or "in kind" donations to further goals as defined by the Board of Directors."

The Deputy Fund solicited donations from individuals and businesses within the community including year-round solicitations for the 'Christmas with a Deputy' program. There was not adequate documentation to determine the approval process of what causes or individuals would receive assistance, gifts, or donations from the Fund. Fundraisers consisted of selling food at community events and soliciting donations from individuals and businesses within the community. The Deputy Fund had an agreement with the City of Wewoka, to operate the city's swimming pool for one year. In managing the operations of the pool, they were allowed to keep the proceeds as donations. The Deputy Fund was responsible for paying the lifeguards and for pool supplies. There was no supporting documentation that payroll for the lifeguards was properly administered.

In November 2015, embezzlement charges were filed against a former undersheriff who pled guilty to embezzling \$18,414.63 between December 2012 and July 2014, from the Seminole County Deputy Fund. Restitution payments resulting from this embezzlement were deposited into the Fund's checking account in the amount of \$6,840.

Nonprofit Operating from the County Sheriff's Office

Finding ***The Seminole County Deputy Fund activities were managed by sheriff office employees with the appearance of activities performed during county work hours.***

The evidence indicates the Deputy Fund appeared to be managed by county sheriff employees on county time and using county facilities. The bank statements were mailed to the sheriff's office address and the most recent signer on the bank account was Undersheriff Matt Haley. Other county sheriff employees also signed checks even though they were not authorized signers per the bank records.

SEMINOLE COUNTY DEPUTY FUND 211 E 2ND ST WEWOKA OK 74884-2603

In a review of county expenditures, it was noted that 48 purchase orders were issued and paid to the Deputy Fund totaling \$8,378. The county sheriff's office requisitioned payment from the county to reimburse expenses paid for from the Deputy Fund bank account totaling \$8,378. None of the reimbursements included proper documentation to support that the expenses were incurred as part of the requestor's official duties.

The Deputy Fund bank account was used as an advance travel fund for select officers. Instead of obtaining a BOCC approved credit card for out-of-county travel or being

reimbursed through the county's travel policy, deputies utilized the Deputy Fund bank account as a line of credit.

The use of county employees on county time to manage the business of a nonprofit would be a violation of **Article 10 Section 17** of the Oklahoma Constitution which prohibits a county from obtaining or appropriating money for, or loaning its credit to any corporation, association, or individual.

ATM and Cash Withdrawals

Finding ***During the period of December 1, 2016 through November 10, 2022, ATM cash withdrawals in the amount of \$9,327 were made with the debit card associated with the Seminole County Deputy Fund checking account and cash withdrawals totaling \$12,002 were made utilizing withdrawal slips and electronic fund transfers.***

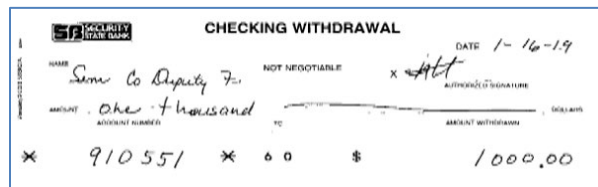
A debit card issued in Haley's name was used to make forty-five (45) ATM cash withdrawals over a six-year period totaling \$9,327. There was no supporting documentation as to the purpose of the withdrawals. Shown below is a \$300 withdrawal made from the bank's Wewoka branch and a \$500 withdrawal made from the bank's Seminole branch.

11/30 300.00 210 S. MEKUSUKEY WEWOKA OK ATM DEBIT

01/03 500.00 824 N MILT PHILLIP SEMINOLE OK ATM DEBIT



There were twenty-one (21) cash withdrawals from the bank via checking withdrawal slips or electronic fund transfers totaling \$12,002. Supporting documentation for the checking withdrawals could not be provided. Haley signed or initialed 17 of the 21 withdrawals totaling \$10,702. Haley was the sole *authorized* signer on the account, one example of a withdrawal is shown.



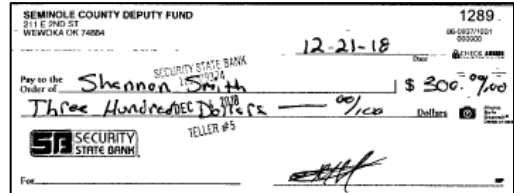
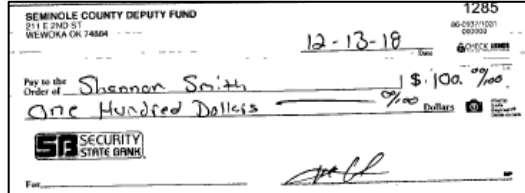
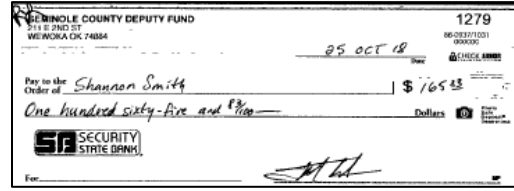
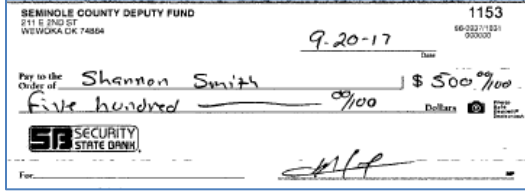
SA&I requested documents from Haley and other former sheriff employees including bank account records and receipts for donations and expenses. The records received were limited and we were unable to reconcile the account or confirm the purpose for the majority of the expenses paid. There was also no evidence the bank account was ever reconciled. With the lack of records and no segregation of duties, the environment surrounding the bank account was conducive for the potential abuse of funds.

Checks Issued to Sheriff, Undersheriff, and Other Employees

Finding ***Four checks totaling \$1,065 were issued to Sheriff Smith from the Deputy Fund.***

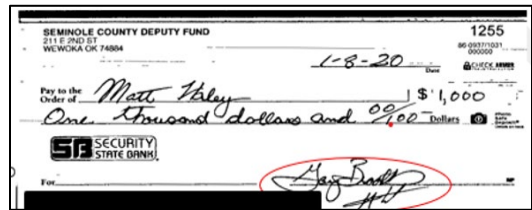
Four checks, totaling \$1,065, were written from the Deputy Fund to Sheriff Smith with no documentation provided to support the purpose of the disbursements. Sheriff Smith stated

the payments were for personal loans; however, there was no documentation supporting this statement or any evidence the loans were repaid.



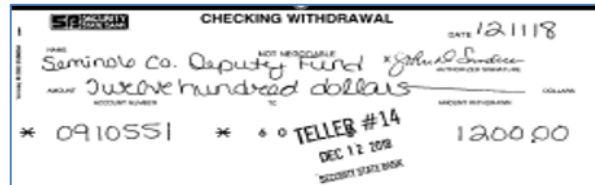
Finding Seven checks totaling \$1,712 were issued to Undersheriff Haley from the Deputy Fund.

There were seven checks written from the Deputy Fund to Undersheriff Haley totaling \$1,712, with no supporting documentation. Haley stated the payments issued were for personal loans. There was no evidence the loans were repaid. An example of one check is shown.



Finding A \$1,200 promissory note was issued to Undersheriff Haley from the Deputy Fund.

There was one promissory note found documenting a \$1,200 'cash' loan between Haley and the "Seminole County Deputies Association." The note listed the county sheriff's office address and was to be paid back in \$200 installments with no accruing interest. Per Sheriff Smith and Haley, loans were given to employees from the Seminole County Deputy Fund because the employees were underpaid. We were unable to determine if the promissory note was paid back.



**OKLAHOMA PROMISSORY NOTE
(UNSECURED)**

ON THIS 11 DAY OF December, 2018,
Matthew Haley of [redacted] hereinafter known as the "Borrower" promises to pay to The Seminole County Deputies Association, of 211 E 2nd Wewoka, Ok 74864, hereinafter known as the "Lender", the principal sum of Twelve Hundred Dollars (\$1200.00), with interest accruing on the unpaid balance at a rate of Zero percent (0%) per annum in accordance with OK ST T. 14A § 3-201 and OK ST T. 15 § 266 (Interest and Usury) of the Oklahoma Statutes.

SIGNATURE AREA
 This agreement was signed the 11 day of December, 2018 by the following:

[Signature]
 Lender's Signature

[Signature]
 Borrower's Signature

[Signature]
 Lender's Signature

[Signature]
 Lender's Signature

Finding *Of 613 transactions occurring in the Deputy Fund checking account, there were 489 transactions, totaling \$91,376, that were not supported with adequate documentation, including 20 transactions to county sheriff employees with no supporting documentation.*

During the audit period, there were 613 transactions totaling \$99,082 expended from the Seminole County Deputy Fund checking account. The purpose of the expenses ranged from Sam's Club/Wal-Mart, cash withdrawals, payments to individuals, loan payments for a concession trailer, grocery stores, restaurants, hotels, training, swimming pool expenses, florists, and reimbursements to the sheriff's line of credit account.

There were 20 checks written to 12 county sheriff employees totaling \$2,689 with no supporting documentation or receipts to determine the purpose of the payments; memo lines included notes such as "funeral escort", "vending machine", "prize", "Christmas reward", "training lunch", "baseball donation", and "dessert."

There were 469 transactions totaling \$88,687 that were not supported with adequate documentation.¹⁷ One receipt to Wal-Mart was for the purchase of \$400 in gift cards, an ice chest, a 55-inch television, the 3-year protection plan for the television, a Roku television, a sound bar, fishing tackle, a laptop computer, the 2-year protection plan for the laptop, and additional miscellaneous items totaling \$2,126. There was also no documentation to define the purpose of these expenditures.

Loan Proceeds

Finding *During the period of November 2018 through December 2020, Sheriff Smith, Haley, and Sanders took over the loan¹⁸ of a concession trailer with an appraised value of \$17,420 and received loan proceeds in the amount of \$10,500 from refinancing the loan multiple times.*

In September 2016, Seminole County Deputy Fund President Steve Williams,¹⁹ took out a loan in the amount of \$11,766 to purchase a cooking trailer to be used for fund-raising events. At the time of the purchase, the trailer was listed on the note agreement with a value of \$17,420. From the loan proceeds, \$8,500 was used for the purchase of the trailer, \$3,000 was placed in the Seminole County Deputy Fund checking account, and the remaining \$266 was paid toward banking fees. During interviews conducted, SA&I was informed the proceeds of \$3,000 were used to purchase new equipment for the trailer, however, there was no documentation provided to support how the funds were spent.

In November 2018, after 24 monthly payments of \$200 were made from the Deputy Fund, Sheriff Smith, Haley, and Sanders, took possession of the trailer, and jointly took out a new loan in the amount of \$11,439.91. Of this amount, \$8,439.91 was used to pay off the prior loan plus fees, the remaining \$3,000 was paid to Smith, Haley, and Sanders via a cashier's check in their names. Sanders endorsed the check.



¹⁷ See Appendix 1 for a listing of the transactions.

¹⁸ The loan was paid for with Deputy Fund money.

¹⁹ Acting president at this time.

There was no documentation the \$3,000 was deposited into the Deputy Fund or how the funds were disbursed. It appears the three individuals took over custody of the trailer and did not return any principal to the Seminole County Deputy Fund.

Other known facts:

- On January 31, 2019, the loan was refinanced again to include an additional \$6,000 in loan proceeds. From this loan, a cashier's check totaling \$6,000 was issued and made payable to Smith, Haley, and Sanders collectively. All three individuals endorsed the check. There was no documentation of where these additional funds were deposited or how they were spent.
- On March 15, 2019, Sheriff Smith and Sanders created a business named Blue Line Burgers and More, LLC.²⁰
- On July 25, 2019, the trailer was sold by Blue Line Burgers and More, LLC to an individual for \$15,500, \$14,000 was used to pay off the second loan and a cashier's check was issued to Sheriff Smith for the balance of \$1,500.
- On the date the trailer was sold, Sheriff Smith was the sole agent of Blue Line Burgers and More, LLC.
- SA&I found no record of any funds being returned to the account of the Deputy Fund. The amount paid towards the original loan of the concession trailer from the Deputy Fund totaled \$4,800.

Summary of Trailer Transactions			
Transaction	Proceeds	Payment Date	Payment Issued To
Loan 1011157	\$ 3,000	11/16/2018	Smith, Haley, & Sanders
Loan 1012795	\$ 6,000	2/1/2019	Smith, Haley, & Sanders
Sale of trailer	\$ 1,500	7/24/2019	Smith
Total	\$10,500		

Use of County Equipment for Non-County Business

Finding ***County vehicles and equipment were utilized at various events for the benefit of the Seminole County Deputy Fund.***

The Deputy Fund members utilized the county sheriff's vehicles and equipment during various fund-raising events. County policy prohibits this, stating in part:

County-owned vehicles may only be used for purposes which are solely for the benefit of the county.

Events for the Deputy Fund are not considered county events nor were they for the benefit of the county. The sheriff's office vehicle utilized below has a Seminole County Deputies Association Banner attached. This presents no clear distinction between the Deputy Fund and the county sheriff's office.

²⁰ Documented via a Secretary of State filing.



Donations

Finding

Donations payable to the “Seminole County Sheriff’s Office” were deposited into the Seminole County Deputy Fund bank account.

Between December 2016 and November 2022, donations totaling \$95,870²¹ were deposited into the Deputy Fund checking account. There was no documentation to determine if the donations were intended for the county sheriff’s office or the Deputy Fund. In the check shown below, \$3,285 was donated to the “Seminole County Sheriff’s Office” but the check was deposited into the Deputy Fund bank account the same day.

<p> 36-19901000 12/8/2018 PAY TO THE ORDER OF <u>Seminole County Sheriffs Office</u> Three Thousand Two Hundred Eighty-Five and 00/100 \$ 3,285.00 Seminoe County Sheriffs Office MEMO Toys for Tots Program VALID VALID VALID VALID www.iss.com </p>	<p> CHECKING DEPOSIT - CREDIT SECURITY STATE BANK WEWICKA, OK DATE 12-6-18 NAME <u>Seminole County Deputy Fund</u> ACCOUNT NUMBER [REDACTED] TOTAL \$ 3,285.00 </p>
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Donations received by the sheriff’s office are required to be presented and accepted in an open BOCC meeting as required by statute.²² The conducting of Deputy Fund business through the county sheriff’s office blurs the lines between county business and Deputy Fund business, resulting in the possible mishandling of donations.

²¹ See donations at Appendix 2.

²² 60 O.S. § 390



Chapter 5

Sheriff's Commissary and Phone Card Revenues and Expenditures

Sheriff's Commissary and Phone Card Profits

Money collected by means of commissary transactions and phone card sales are to be deposited into the Inmate Trust Checking Account. These funds should then be transferred to the Sheriff Commissary Fund and Sheriff Service Fee Fund, respectively, to be used for purchases as provided for in statute. For commissary proceeds, 19 O.S. § 180.43(D) states:

*Each county sheriff may contract the operation of a **commissary** for the benefit of persons lawfully confined in the county jail. Any funds received pursuant to said operations shall be funds of the county where the persons are incarcerated and shall be deposited in the Sheriff's Commissary Account. The sheriff shall be permitted to expend the funds to improve or provide jail services. The sheriff shall be permitted to expend in any surplus in the Sheriff's Commissary Account for administering expenses for training equipment, travel or for capital expenditures. The claims for expenses shall be filed with and allowed by the board of county commissioners in the same manner as other claims... [emphasis added]*

For phone card proceeds, 19 O.S. § 180.43(E) states in relevant part:

*...Each county sheriff may contract the operation of a **telephone** system for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff. Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited into the Sheriff's Service Fee Account. Such funds may be expended according to the guidelines previously established for expenditures from the general fund... [emphasis added]*

Finding Profits from the sale of commissary items and phone cards were not transferred to county funds in accordance with statute.

Between December 1, 2016 through November 10, 2022, the county sheriff's office profited \$135,558 in commissary sales and \$70,464 in phone card sales. These amounts should have been transferred into the Sheriff's Commissary Fund and Sheriff Service Fee Fund, respectively, to be used as allowed per statute. By not transferring these funds as required, the sheriff reduced the revenue available for use by his office toward jail costs and other necessary expenditures.

In addition, the funds that remained in the Inmate Trust Checking Account had no oversight and were not properly tracked or reconciled. The accumulation of these funds left a large "cushion" of money which allowed Burgess the ability to conceal the misappropriation of cash transactions.

Improper Purchasing Procedures and Finance Charges Incurred

According to statute,²³ the county sheriff may establish an Inmate Trust Fund Checking Account; however, disbursements from this account should only include checks written to the Sheriff's Commissary Account for purchases made by inmates and checks written for the benefit of inmates upon their discharge from jail. The procedures to be used for other payments of goods and services from the sheriff's office should be made through the county's requisition/purchase order process.

²³ 19 O.S. § 531(A)

Finding *The sheriff's office did not utilize the proper purchasing procedures for payment of vendor invoices as defined in statute.*

During the audit period, the county sheriff's office paid 52 invoices totaling \$412,205 direct from the Inmate Trust Fund Checking Account instead of through the county's purchase order process as required by statute.²⁴

These invoices, along with other food vendor invoices, were also not paid timely, incurring finance charges which could have been avoided by following the proper county purchasing procedures. This practice resulted in the county sheriff's office paying finance charges totaling \$15,826, \$5,819 for commissary vendor invoices and \$10,007 for inmate food vendor invoices.

Commissary Vendor Invoices		
FYE	Finance Charges	Number of Occurrences
2017	\$164	2
2018	\$406	4
2019	\$578	5
2020	\$1,859	10
2021	\$2,251	12
2022	\$342	5
2023	\$219	2
Total	\$5,819	40

Inmate Food Vendor Invoices		
FYE	Finance Charges	Number of Occurrences
2017	\$ -	0
2018	\$2,413	10
2019	\$1,196	3
2020	\$3,176	8
2021	\$1,922	6
2022	\$1,024	4
2023	\$ 276	1
Total	\$10,007	32

²⁴ 19 O. S. § 1505

IN SUMMARY

The issues addressed in this report reflect that Seminole County constituents and the Seminole County Sheriff's Office have experienced a financial loss at the hands of former employees including the sheriff and undersheriff. Although these findings are the responsibility of the alleged perpetrators, the members of the Board of County Commissioners also share accountability in the oversight of county funds.

Over the past several years, SA&I has noted and reported several instances of the 'Lack of Internal Controls and Noncompliance' concerning the Inmate Trust Fund Checking Account and the Sheriff Commissary Fund. This lack of internal controls, along with not depositing collections and profits daily with the bank, allowed for excess funds to be included in a bank account with no oversight which led to a misappropriation of cash. Circumvention of the county's purchasing process also included the overall mismanagement of funds.

Sheriff Smith opened a line of credit through a bank account in his name utilizing Seminole County's tax ID with official approval from the District Attorney never documented. This was brought to Sheriff Smith's attention when it was discovered in a routine county audit on January 5, 2021, with the recommendation made that the sheriff close the unlawful account. This account remained open until October 26, 2022.

The overall lack of management and oversight extended to the operations of a nonprofit entity that was allowed to operate in conjunction with the county sheriff's office staff, primarily through the activities of Undersheriff Matt Haley, who had access to cash, the bank records, a debit card in his name, and checks that required only his signature.

The results of SA&I's investigation will be turned over to the Attorney General's Office.



Appendices

Appendix 1 | Seminole County Deputy Fund Expenditures

Appendix 2 | Seminole County Deputy Fund Donations

Appendix 1

Seminole County Deputy Fund		
Expenditures		
December 1, 2016 through November 10, 2022		
Purpose	Amount	Number of Transactions
Sam's Club/Walmart	\$ 33,752	128
Cash Withdrawals	\$ 12,002	21
Payments to Individuals	\$ 10,658	56
ATM Withdrawals and Fees	\$ 9,327	45
Loan Payment to Security State Bank for Concession Trailer	\$ 4,200	21
Grocery Stores	\$ 3,196	33
Retail, Hardware and Auto Parts Stores	\$ 3,069	34
Hotels	\$ 2,676	10
Concession and Food Vendor Expenses	\$ 2,120	11
Payment Issued to Seminole County		
Line of Credit Bank Account for Reimbursement	\$ 1,500	1
Restaurants	\$ 1,443	55
Training	\$ 696	3
Plaques and Awards	\$ 685	2
Little League	\$ 650	2
Florist	\$ 512	4
Shirts for T Shirt Fundraiser	\$ 470	1
Vending Machine	\$ 462	6
Expenses for Pool	\$ 337	6
Fuel	\$ 283	17
Dozer	\$ 221	1
Office Supplies	\$ 143	3
Returned Check	\$ 100	1
Tag for Concession Trailer	\$ 91	1
Blood Drive	\$ 41	1
Eyeglasses for Child	\$ 40	1
Apple Subscription Charge	\$ 6	2
Bank Fee	\$ 5	1
ATM Fees	\$ 2	2
Total	\$ 88,687	469
<p><i>The expenditure purpose was compiled from the Seminole County Deputy Fund data and the description may be abbreviated or condensed.</i></p>		

Appendix 2

Seminole County Deputy Fund	
Donations	
December 1, 2016 through November 10, 2022	
Purpose	Amount
Donations	\$ 46,159
Cash Deposits	\$ 14,519
Christmas Donations	\$ 14,190
Reimbursements from County	\$ 8,369
Restitution Payments from Prior Embezzlement	\$ 6,240
Deposits from Running Pool	\$ 3,610
Donation for Recovery	\$ 1,000
Donations for Dog Surgery	\$ 440
Fundraisers	\$ 400
Donation from Prodigy Phone Vendor	\$ 250
Contributions	\$ 200
Donation to Sheriff's Office	\$ 200
Michael Johnson Memorial Donation	\$ 100
Fraternal Order of Police (FOP) Donation	\$ 100
Food Drive	\$ 50
County Reimbursement Deposited into Wrong Account	\$ 28
County Reimbursement Warrant Written to M. Haley	\$ 8
Check from Susan Buck Sheriff Employee	\$ 7
Total	\$ 95,870
<i>The donation purpose was compiled from the Seminole County Deputy Fund data and the description may be abbreviated or condensed.</i>	

DISCLAIMER

By the issuance of this report, the Office of State Auditor & Inspector has no intent to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory agencies, and law enforcement, prosecutorial, and/or judicial authorities designated by law.

O·K·L·A·H·O·M·A
SAI
STATE AUDITOR & INSPECTOR



Cindy Byrd, CPA | State Auditor & Inspector

2300 N. Lincoln Blvd., Room 123, Oklahoma City, OK 73105 | 405.521.3495 | www.sai.ok.gov