

**RICHARD GRAY  
DISTRICT ATTORNEY, DISTRICT 27  
STATUTORY REPORT  
PROPERTY FORFEITURE FUND  
FOR THE YEARS ENDED  
JUNE 30, 2004 AND JUNE 30, 2005**

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STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN  
State Auditor and Inspector

June 1, 2006

Richard Gray, District Attorney  
District 27

Transmitted herewith is the statutory report for the District Attorney of District 27, Wagoner, Sequoyah, Cherokee, and Adair Counties, Oklahoma (the District), for the fiscal years ended June 30, 2004 and June 30, 2005. A report of this type is critical in nature; however, we do not intend to imply that there were not commendable features in the present accounting and operating procedures of the District.

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

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

Sincerely,

A handwritten signature in cursive script that reads "Jeff A. McMahan".

JEFF A. McMAHAN  
State Auditor and Inspector

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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 OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN  
State Auditor and Inspector

**Statutory Report**

Richard Gray  
District Attorney, District 27  
Wagoner County Courthouse  
Wagoner, Oklahoma 74467

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 years 2004 and 2005:

- We compared the amount of cash forfeited to the amount of cash deposited or on hand for each case containing cash.
- We reviewed sale documentation for selected cases to determine whether forfeited assets were sold after due notice at public auction to the highest bidder in accordance with 63 O.S. §2-508.C.3.
- For selected cases, the distribution of proceeds of the sale was reviewed to determine the distribution was in accordance with Court order pursuant to 63 O.S. §2-506.K.
- We determined whether expenditures tested were used for enforcement of controlled dangerous substance laws, drug abuse prevention and education in accordance with 63 O.S. §2-506.L.3.
- We determined 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.
- We determined whether the District Attorney reconciles the balance with the County Treasurer monthly in accordance with 63 O.S. §2-508.C.3.

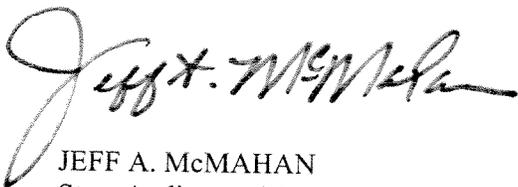
Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with accounting standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Wagoner, Sequoyah, Cherokee, or Adair 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 made for lawful uses; expenditures were supported by approved claims, invoices, and independent verification that goods or services paid for were received and the District Attorney reconciles the balance of the Property Forfeiture Fund with the County Treasurer's records monthly.

Our findings concerning cash forfeited and cash deposited are presented in the accompanying Schedule of Additional Procedures and Findings.

This report is intended for the information and use of the District Attorney and Wagoner, Sequoyah, Cherokee, and Adair County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

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

JEFF A. McMAHAN  
State Auditor and Inspector

April 25, 2006

**RICHARD GRAY, DISTRICT ATTORNEY  
DISTRICT 27  
STATUTORY REPORT  
JUNE 30, 2004 AND JUNE 30, 2005**

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**SCHEDULE OF ADDITIONAL PROCEDURES AND FINDINGS**

During the course of a regular audit of the District, performed in accordance with 63 O.S. § 2-506, the Office of the Oklahoma State Auditor and Inspector discovered certain irregularities in the deposit of public funds. We performed the procedures enumerated below with respect to the District for the period beginning January 1, 2002 and ending October 1, 2005.

We reviewed all files related to property forfeiture cases for the District from January 1, 2002 through October 1, 2005. We compared the amount of cash forfeited per court order to the amount of cash deposited or on hand and recorded the variances in the following schedule.

<u>Case Number</u>	<u>County</u>	<u>Amount Forfeited</u>	<u>Amount Deposited</u>	<u>Variance</u>
1. CV-03-409	Adair	\$6,534.00	\$0	\$(6,534.00)
2. CV-04-207	Adair	\$2,900.00	\$0	\$(2,900.00)
3. CV-04-310	Adair	\$ 457.00	\$0	\$ (457.00)
4. CP-02-381	Cherokee	\$ 705.00	\$0	\$ (705.00)
5. CP-03-253	Cherokee	\$ 187.00	\$0	\$ (187.00)
6. CP-05-449	Cherokee	\$ 131.00	\$0	\$ (131.00)
7. CP-03-331	Cherokee	\$5,796.30	\$5,396.30	\$ (400.00)
8. CP-04-618	Cherokee	\$9,688.00	\$9,633.00	\$ (55.00)
9. CV-04-509	Sequoyah	\$1,247.00	\$0	\$(1,247.00)
10. CV-04-262	Sequoyah	\$2,764.00	\$2,754.00	\$ (10.00)
11. CV-04-295	Sequoyah	\$1,259.00	\$1,218.00	\$ (41.00)
12. CV-03-889	Wagoner	\$2,230.00	\$ 174.00	\$(2,056.00)
13. CP-03-254	Cherokee	\$1,843.00	\$1,872.00	\$ 29.00
14. CP-03-508	Cherokee	\$57,228.00	\$58,189.00	\$ 961.00
15. CP-04-116	Cherokee	\$1,728.00	\$ 1,745.00	\$ 17.00

**RICHARD GRAY, DISTRICT ATTORNEY  
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<u>Case Number</u>	<u>County</u>	<u>Amount Forfeited</u>	<u>Amount Deposited</u>	<u>Variance</u>
16. CP-05-288	Cherokee	\$8,459.00	\$8,749.00	\$290.00
17. CV-03-328	Sequoyah	\$4,400.00	\$4,450.00	\$ 50.00
18. CV-04-912	Sequoyah	\$1,457.00	\$1,462.00	\$ 5.00
19. CV-03-830	Sequoyah	\$57,468.00	\$57,794.00	\$326.00
20. CV-03-932	Wagoner	\$1,200.00	\$1,220.00	\$ 20.00

Recommendation: We recommend that the proper authorities review this finding to determine if further action is necessary.

Views of responsible officials and planned corrective actions: See attachment.



**RICHARD L. GRAY**  
DISTRICT ATTORNEY

State of Oklahoma  
27th District

**Wagoner County**  
307 E. Cherokee  
Wagoner, OK 74467  
Telephone (918) 485-2119  
Facsimile (918) 485-4220

May 11, 2006

Honorable Jeff McMahan  
Oklahoma State Auditor  
112 State Capitol  
2300 N. Lincoln  
Oklahoma City, OK 73105



Dear Auditor McMahan:

I commend you on the time and attention that was devoted to the audit of the Twenty Seventh Prosecutorial District by your office. Notwithstanding the hundreds of files which were reviewed, encompassing several years, all auditors were tenacious in their efforts and fair in rendering their assessment. Your months of effort resulted in an accurate presentation of facts and figures related to, literally, hundreds of seized items and cash amounts in the hundreds of thousands of dollars. Your audit has provided great insight as to manners and methods of operation, confirming the validity and utility of our documentation process, but also identifying areas of forfeiture procedure to improve record keeping tasks within my four county district.

As you know, the audit covered a period from January 1<sup>st</sup> of 2002 to October 1<sup>st</sup> of 2005, some of the files reviewed were files which had been initiated prior to my administration. Once in office, I created a spread sheet for forfeiture files already in existence and gathered information as to the status and disposition of all forfeitures so that they could be addressed in an expeditious manner. Hopefully, those spreadsheets were of assistance to you in your task and provided some enlightenment on the inadequate status of the forfeiture files when I took office in January of 2003. Although the records concerning seized items were voluminous, I was pleased to read in your audit that it acknowledges that forfeiture procedures were performed, proper notice given, appropriate Court orders were obtained, expenditures of funds were supported by approved claims, invoices and verifications, and goods and services received were paid and reconciled with records within the Count Treasurer's Office.

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Honorable Jeff McMahan letter  
May 11, 2006

Although our efforts were to document all items and funds in a manner which provide an impeccable paper trail of process and procedure, your audit identified troubling variances in some deposits during the audit period. I have contacted the Oklahoma State Bureau of Investigation concerning the following files:

Adair County case number CV-03-409 (\$6,534.00) - there was a deposit of one hundred sixty four dollars on 11-18-04, the remainder is unaccounted for at this time.

Cherokee County case number CV-02-381 (705.00) - that money was identified as being signed for and in possession of Clint Johnson. The money was not presented to the Office of the District Attorney for deposit.

Wagoner County case number CV-03-889 (\$2,230.00) – there was a deposit of one hundred seventy-four dollars on July 21, 2004, the remainder is unaccounted for at this time..

There is a pending investigation by the Oklahoma State Bureau of Investigation concerning Adair County case number CV-03-207 (\$2,900.00). That money was last known to be in possession of the Adair County Sheriff's Office and forfeiture was never effected on that amount. Obviously, that amount was never presented for deposit to the Office of the District Attorney.

Through investigation of other variances, it was discovered that in Cherokee County case CP-05-449 (\$131.00), the money was last documented in possession of Donovan Dobbs. Mr. Dobbs assures me that the money was placed within a secure lock box for purposes of deposit. There is no record of such deposit. Mr. Dobbs is willing to reimburse this office due to the discrepancy.

As you know, procedures for the verification of the exact amount of funds to be forfeited varies by jurisdiction. Often the Notice of Seizure reflects the amount the law enforcement has indicated on their respective reports. In Cherokee County case number CP-03-331 that is exactly what caused the variance. There was verification of the cash amount prior to obtaining the Order of Forfeiture, when the seized money was presented for deposit, the balance was deficient. We now cause an additional counting of seized funds by my office to verify the amount of funds subject to forfeiture prior to filing a notice.

In Adair County case number CV-04-310 (\$457.00), the forfeited proceeds were never presented for deposit to the Office of the District Attorney. The Oklahoma State Bureau of Investigation was notified and the matter is pending investigation.

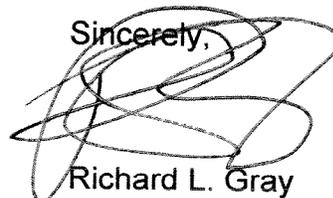
Page 3  
Honorable Jeff McMahan letter  
May 11, 2006

Concerning Cherokee County case number CP-03-253 (\$187.00), the amount indicated on the Notice of Seizure was referenced on a report submitted by Clint Johnson. Subsequent to obtaining an Order of Forfeiture, the amount could not be produced by Clint Johnson.

In Sequoyah County case CV-04-509 (\$1,247.00), the Sheriff's Department has done an investigation of the funds that are apparently missing from their office, a copy of which has previously been supplied. That money never was presented for deposit to the Office of the District Attorney.

Although the amount of variance is an extremely small percentage of the total forfeitures over the audit period, and in recognition of the fact that some of the forfeited funds were simply never in the possession of the Office of the District Attorney, the variances are absolutely unacceptable and all efforts will be utilized to identify the location of variance amounts. I recognize and accept the responsibility of my office to account for items enumerated on the Notice of Seizure and Forfeiture. Again, I appreciate the professionalism shown by your auditors and accept their additional insight and suggestions for improvement of my accounting process.

Sincerely,



Richard L. Gray  
District Attorney

RLG/krb

Enc.