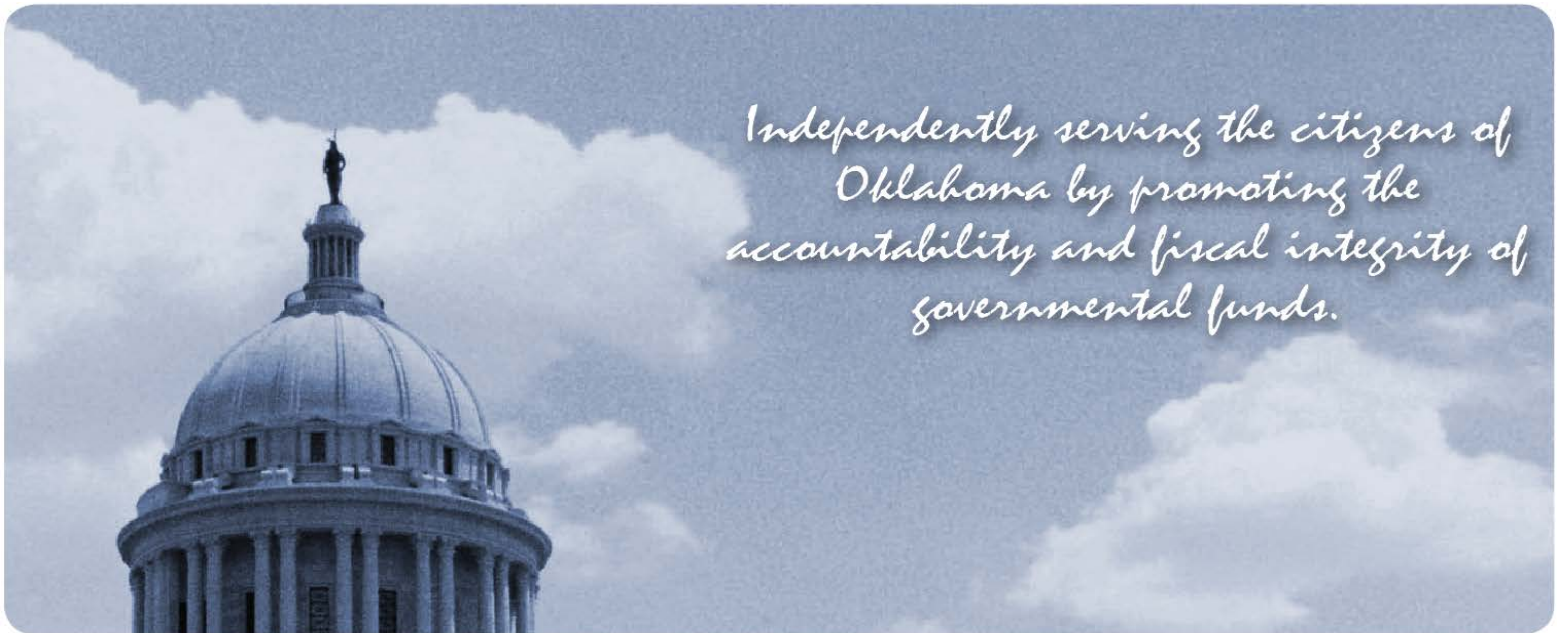


STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 10
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

For the period of July 1, 2013 through June 30, 2015



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**REX DUNCAN, DISTRICT ATTORNEY
DISTRICT 10**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015

This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991f-1.1, and 63 O.S. § 2-506 has not been printed, but is available on the agency's website (www.sai.ok.gov) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Prairie Collection (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to 65 O.S. § 3-114.



Oklahoma State Auditor & Inspector

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December 5, 2017

Rex Duncan, District Attorney
District 10
628 ½ Kihekah, 3rd Floor
Pawhuska, Oklahoma 74056

Transmitted herewith is the statutory report for the District Attorney of District 10, Osage and Pawnee County, Oklahoma (the District) for the period of July 1, 2013 through June 30, 2015.

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.

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 during our engagement.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

**REX DUNCAN, DISTRICT ATTORNEY
DISTRICT 10
STATUTORY REPORT
FOR THE PERIOD JULY 1, 2013 THROUGH JUNE 30, 2015**

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**REX DUNCAN, DISTRICT ATTORNEY
DISTRICT 10
STATUTORY REPORT
FOR THE PERIOD JULY 1, 2013 THROUGH JUNE 30, 2015**

INTRODUCTORY INFORMATION

BOGUS CHECK PROGRAM

The bogus check program was created by the Oklahoma Legislature in 1982 as a special type of deferred prosecution program and every district attorney is required to operate a bogus check program. The program provides an alternative way to handle bogus check cases without any additional cost to courts, prosecutors, or the state prison system. The primary emphasis of the program is collecting restitution for the victim of the crime, rather than punishing the offender.

Bogus checks are a significant cost to business, a cost that is passed on to the consumer and paid by all citizens and taxpayers in the state. The bogus check program has been an effective way to address the economic problem caused by bogus checks. The program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.

DISTRICT ATTORNEY SUPERVISION PROGRAM

The district attorney supervision program was created by the Oklahoma Legislature in 2005 as an alternative from supervision by the Department of Corrections. When the court imposes a deferred or a suspended sentence for any offense and does not order supervision by the Department of Corrections, the offender shall be required to pay the district attorney a monthly supervision fee. However, the legislation provides that in hardship cases, the district attorney shall expressly waive all or part of the fee.

DISTRICT ATTORNEY DRUG ASSET FORFEITURE PROGRAM

Most district attorneys in the state have a Drug Asset Forfeiture Fund. The fund is not subject to fiscal year limitations and is to be used for enforcement of controlled dangerous substance 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.



Oklahoma State Auditor & Inspector

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Statutory Report

Rex Duncan, District Attorney
District 10
628 ½ Kihekah, 3rd Floor
Pawhuska, Oklahoma 74056

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991f-1.1, and 63 O.S. § 2-506, we have performed the following procedures as they relate to the records of the District Attorney's programs for the period July 1, 2013 through June 30, 2015.

Bogus Check, Supervision, and Restitution and Diversion Programs:

- Determine that internal controls are designed and operating over the collections and expenditures process.
- Examine fees to determine that the correct fees are assessed, receipted, and deposited in compliance with 28 O.S. § 153, 22 O.S. §§ 114, 991d, 991f-1.1, and 19 O.S. § 215.11.
- Determine whether expenditures are used to defray the expenses of the District Attorney's office in accordance with 22 O.S. §§ 114 and 991f-1.1, and whether expenditures are supported by approved claims, invoices, and verification that goods or services paid for were received.
- Determine whether the District Attorney reconciles all accounts with the County Treasurer's ledgers.
- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council that shows total deposits and total expenditures for the Bogus Check Restitution Program and the Supervision Program.

Drug Asset Forfeiture Program:

Determine that internal controls are designed and operating over the collections and expenditures process.

- Determine that the District Attorney maintains a true and accurate inventory of all property seized in accordance with 63 O.S. § 2-506.K.
- Review sale documentation for selected cases to determine whether forfeited assets were sold after due notice at public auction to the highest bidder in accordance with 63 O.S. §§ 2-506 and 2-508.
- Review the distribution of proceeds to determine the distribution was in accordance with court orders pursuant to 63 O.S. §§ 2-506.K and 2-508.
- Test expenditures to determine they are supported by approved claims, invoices, and independent verification that goods or services paid for were received.

- Determine if the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits, total expenditures, beginning and ending balances in accordance with 63 O.S. § 2-506.L.3.
- Determine if the District Attorney reconciles account balances with the County Treasurer.

All information included in the financial records of the bogus check restitution program, supervision program, and the drug asset forfeiture program are the representation of the District Attorney for their respective district.

Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any basic financial statement of Osage or Pawnee County.

Based on our procedures performed, we have presented our findings in the accompanying schedule.

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

A handwritten signature in blue ink that reads "Gary A. Jones". The signature is written in a cursive style with a long, sweeping tail on the letter "s".

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

November 29, 2017

**REX DUNCAN, DISTRICT ATTORNEY
DISTRICT 10
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2015-1 – Internal Control Environment – Noncompliance to Written Policies and Procedures for the Bogus Check Restitution Program and Information Technology Process (Repeat Finding)

Condition: As part of our review of the District Attorney’s accounts and records, we tested receipts, disbursements and cash balances. As a result of these tests, deficiencies were noted in certain areas, which include the following:

Pawnee County

Bogus Check Restitution Program

- Deposits are performed once a week regardless of daily activity.

Information Technology

- Employees do not log out of the computer system when leaving their workstation, and/or the computer does not time-out during periods of inactivity.

Cause of Condition: The District Attorney’s office has a written policy to deposit all collections daily; however, this policy was not followed. Further, policies and procedures have not been implemented to guard against unauthorized access to computer data.

Effect of Condition: This condition could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, and the accounting of funds. In addition, this condition could result in unauthorized access to financial information and inaccurate or improper expenditures for the District.

Recommendation: The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends that management adhere to written policies and procedures for the daily depositing of program funds. Implementing this recommendation would ensure that the Bogus Check Restitution Program collections are properly safeguarded.

Furthermore, we recommend management identify, analyze and manage risks. Management should also assess the quality and effectiveness of the organization’s internal control process over time and implement appropriate controls and oversight of each programs daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department’s assets.

Management Response:

District Attorney: Bogus Check Restitution Program – This office has a written policy requiring daily deposits of all collections. The policy was not followed throughout the period covered by this audit. Employees working full-time and part time in the Pawnee Office will be reminded that this requirement is also a statutory requirement, not discretionary, and will be enforced.

**REX DUNCAN, DISTRICT ATTORNEY
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Information Technology – This office will improve its security and access to workstation information. We will amend our written Policy Manual to require logout and/or software time-outs for extended periods of inactivity.

Criteria: Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented to ensure compliance with laws and regulations, to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions.

Finding 2015-2 - Inadequate Internal Controls Over Unidentified Balances in the Bogus Check Restitution Program (Repeat Finding)

Condition: Upon review of the Bogus Check Restitution Program, we noted an outstanding balance at June 30, 2015. This is a cumulative balance as a result of vouchers not cashed by merchants and subsequently cancelled. They are as follows:

Osage County

- Bogus Check Restitution (Merchant Account) had outstanding balances at June 30, 2015 totaling \$4,246.58 which the merchant/victim could not be identified.

Pawnee County

- Bogus Check Restitution (Merchant Account) had outstanding balances at June 30, 2015 totaling \$11,108.50 which the merchant/victim could not be identified.

Cause of Condition: The District Attorney's office does not have formal policies to ensure that returned or unpaid vouchers from prior years are examined to determine the status of the merchant for the re-issuance of the restitution.

Effect of Condition: This condition resulted in the Bogus Check Restitution account having an outstanding balance due to merchant restitution vouchers not being properly remitted and paid.

Recommendation: OSAI recommends that management research and determine the location of the merchants so that restitution can be properly remitted. Management should then contact the proper agency for further direction to determine the manner in which the remaining unidentified balance should be distributed.

Management Response:

District Attorney: I will assign personnel to make a thorough, final scrub of these two accounts in an effort to find the rightful owners of these monies, some of which I understand were collected over fifteen years ago. Funds which cannot be attributed to an individual or business, or contact made therewith, will be forwarded to the District Attorney's Council (DAC). Further, this office will continue its practice of

**REX DUNCAN, DISTRICT ATTORNEY
DISTRICT 10
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forwarding restitution to victims as said payments are received by this office, not holding them until restitution has been remitted in full.

Criteria: Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented to ensure compliance with laws and regulations, to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions.



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