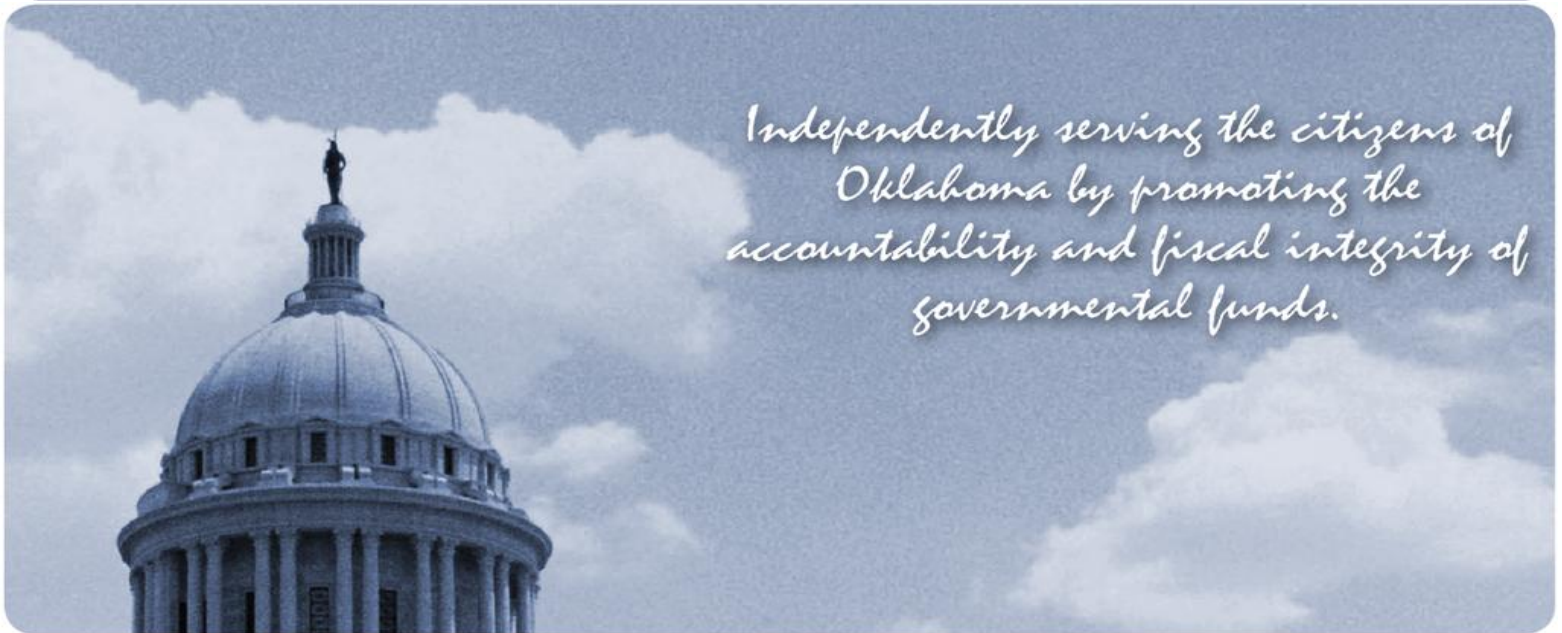


STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 11  
BOGUS CHECK RESTITUTION PROGRAM  
SUPERVISION PROGRAM  
PROPERTY FORFEITURE PROGRAM**

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



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

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11**

**STATUTORY REPORT  
BOGUS CHECK RESTITUTION PROGRAM  
SUPERVISION PROGRAM  
PROPERTY FORFEITURE PROGRAM**

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

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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](http://www.sai.ok.gov)) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Collection, pursuant to 74 O.S. § 3105.B.



# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

January 9, 2017

Kevin Buchanan, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

Transmitted herewith is the statutory report for the District Attorney of District 11, Washington and Nowata 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 are 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

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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**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 PROPERTY FORFEITURE PROGRAM**

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 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

Kevin Buchanan, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 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 of July 1, 2013 through June 30, 2015.

### Bogus Check and Supervision Programs:

- Determine that internal controls are designed and operating over the collections and disbursements 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, and 19 O.S. § 215.11.
- Determine whether disbursements are used to defray the expenses of the District Attorney's office in accordance with 22 O.S. §§ 114 and whether disbursements are supported by approved claims, invoices, and verification that goods or services paid for are 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 disbursements for the Bogus Check Restitution Program, the Supervision Program, and Restitution and Diversion Program.

### Property Forfeiture Program:

- Determine that internal controls are designed and operating over the collections and disbursements 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 are 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 disbursements to determine they are supported by approved claims, invoices, and independent verification that goods or services paid for are received.

- Determine if the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits, total disbursements, 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, restitution and diversion program, and the property 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 Washington or Nowata 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, flowing style.

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

November 16, 2016

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2015-1 – Inadequate Segregation of Duties – Bogus Check Restitution, Supervision Fee, and Property Forfeiture Programs (Repeat Finding)**

**Condition:** Upon inquiry of the District Attorney’s staff and observation of records, the following instances of lack of segregation of duties in personnel within the District Attorney programs were noted:

**Washington County**

A lack of segregation of duties existed in the reconciliation and reporting process of the Property Forfeiture Program (Dangerous Substance and Forfeiture Trust Accounts). One employee maintained ledgers, performed monthly reconciliations, and prepared the annual reports. No one other than the preparer reviewed the monthly reconciliations or annual reports for accuracy.

A lack of segregation of duties existed in the procedural process of the Bogus Check Restitution Program (Merchant Restitution and DA Fee Accounts). One employee received and entered payments, prepared disbursements, signed and registered vouchers, maintained ledgers, performed monthly reconciliations, and prepared the annual report. No one other than the preparer reviewed the monthly reconciliations, or annual reports for accuracy.

**Nowata County**

A lack of segregation of duties exists in the procedural process of the Property Forfeiture (DA Trust Fund and Drug Accounts) and Supervision Fee Programs. One employee received payments, prepared and delivered deposits, prepared disbursements, authorized vouchers, maintained ledgers, performed monthly reconciliations, and prepared the annual report. No one other than the preparer reviewed deposits, monthly reconciliations, or annual reports for accuracy.

**Cause of Condition:** Policies and procedures have not been designed and implemented to properly separate key accounting functions within the District Attorney’s programs.

**Effect of Condition:** A single person having responsibility for more than one area of recording, authorization, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner.

**Recommendation:** The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends management be aware of these conditions and realize that concentration of duties and responsibilities in a limited number of individuals is not desired from a control point of view. The most effective controls lie in management’s overseeing of office operations and a periodic review of operations. OSAI recommends management provide segregation of duties so that no one employee is able to perform all accounting functions. In the event that segregation of duties is not possible due to limited personnel, OSAI



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recommends implementing compensating controls to mitigate the risks involved with a concentration of duties. Compensating controls would include separating key processes and/or critical functions of the office, and having management review and approval of accounting functions.

**Management Response:** In regards to the Drug Forfeiture Fund, the Management Response to the Audit ending June 30, 2013 fully explains the manner in which cash is receipted and deposited by two people, purchase orders prepared by another, and checks only signed by this author, all in addition to the cash being listed as a party in the forfeiture action as documented by Law Enforcement reports from the inception of its seizure. There is no manner in which the District Attorney's office personnel could take money from this process without the collusion of two agencies and multiple people in each participating.

Nowata County circumstances remain the same. Only two employees, one with extensive courtroom responsibilities, make compliance with the recommendations possible only on a limited basis.

**Auditor Response:** Financial records reviewed did not reflect any indication of a review. OSAI recommends the District Attorney's staff initial and date the documents that have been reviewed in order to provide adequate documentation of the process. Further, in the case of Nowata County with a staff of two employees, initiating this review process would compensate for the lack of segregation of duties.

**Criteria:** Demonstration of accountability and stewardship are goals used in evaluating management's accounting for funds. A basic component of adequate internal controls is the segregation of duties so that one individual cannot perpetuate and conceal errors and irregularities in the normal course of his/her duties. To help ensure a proper accounting of funds and strong internal controls, the duties of receiving, receipting, recording, and depositing cash and checks should be separated among employees.

**Finding 2015-2 – Inadequate Internal Controls Over the Environment - Written Policies and Procedures for Bogus Check Restitution and Supervision Fee Programs (Repeat Finding)**

**Condition:** As part of our review of District Attorney's accounts and records, we tested receipts, disbursements and cash balances. The District Attorney does not have written policies and procedures and/or has not designed and implemented internal controls for the safeguarding and reporting of program funds. As a result, deficiencies were noted in certain areas, which include the following:

***Information Technology (IT)***

- Employees did not log-off of their computers when away from their stations, nor do their computers time-out during periods of inactivity.
- Employees receiving payments can delete/void payments without oversight and approval.
- Employees can adjust (write-off) defendant account financial activity without any oversight and approval.
- IT adjustment (write-offs) or void/deletion reports were not reviewed periodically for unusual activity.

KEVIN BUCHANAN, DISTRICT ATTORNEY  
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*Supervision Fee Program*

**Washington County**

- Deposits are not performed daily. We noted instances where 7-14 days had lapsed before payments are deposited.
- On one (1) of the ten (10) Supervision Fee Program cases tested, we noted the fee was not properly assessed, resulting in a loss of \$240.00 to the District.
- Eight (8) of the ten (10) Supervision Fee Program disbursements tested did not have any indication that goods and/or services had been received.
- One (1) of the ten (10) disbursements tested did not have an itemized invoice attached to validate the expenditure.
- Subsidiary ledgers were not maintained independently from the County Treasurer. Therefore, monthly reconciliations were not performed with the County Treasurer to ensure account activity was accurately entered in County records.

**Nowata County**

- Deposits were not performed daily. We noted instances where 11-42 days had lapsed before payments were deposited.
- One (1) of the ten (10) Supervision Fee Program cases tested was assessed probation fees in excess of the amount allowed of \$120.00.
- Supervision Fee Program refund payments did not have supporting documentation attached to validate the expenditure.
- We are unable to locate an invoice for the only disbursement in FY14 to validate the expense.

*Bogus Check Restitution Program*

**Washington County**

- Deposits were not made daily.
- Transfer payments to the District Attorney's Council did not have supporting documentation attached to validate the purpose of the expenditure.

**Cause of Condition:** The District Attorney's office does not have formal policies in place to safeguard against unauthorized access to computer data and to ensure collections and disbursements are properly approved by management with proper supporting documentation and processed in a timely manner. Further, policies have not been implemented to ensure Supervision Fee Program assessments are accurately administered per court instructions.

**Effect of Condition:** These conditions could result in unauthorized access to financial information, improper disbursements for the District, unrecorded transactions, and undetected errors in defendant supervision obligations.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
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**Recommendation:** OSAI recommends that management adopt written policies and procedures for the accounting of program funds and maintenance of client files. Implementing formal procedures would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the implementation of a time-out security measure for computers to safeguard against unauthorized access when an employee is away from their station, or,
- Policies instructing employees to log-out of their computers when leaving their station to prevent unauthorized access.
- Guidelines for the process of approval by management and documentation of account disbursements.
- Guidelines for the oversight of the daily collection process and the depositing of funds.
- Guidelines for the oversight of monthly reconciliations to the County Treasurer's account balances.
- Guidelines for disbursements to be properly supported with indication that goods and/or services are received by the District.

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:** The delays in deposits are unacceptable. Fortunately, with the addition of electronic payments accepted in both counties, the deposits have to be made on a daily basis due to the nature of the transactions.

The non-invoiced expenditure from Nowata supervision account was made to a company for the analysis of an Airbag Control Module involved in a fatality that could not be analyzed through normal channels and approved by this author. Payment was made in advance when the module was sent.

In regards to supporting documentation for monies sent to DAC, there are only two reasons ever to send money to DAC, salaries, benefits, or travel reimbursement or payment for computers purchased or services rendered by DAC. Attached or not, an adequate paper trail always exists.

**Auditor Response:** Adequate supporting documentation should be attached to all claims used for transferring funds to the District Attorneys Council and to all claims for other expenditures.

**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

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supporting documentation for transactions and items affecting management decisions, and to safeguard data.

**Finding 2015-3 – Inadequate Internal Controls Over the Environment - Written Policies and Procedures for Property Forfeiture Program (Repeat Finding)**

**Condition:** As part of our review of the District Attorney’s accounts and records, we tested receipts, disbursements and cash balances of the Property Forfeiture Program.

Washington County’s Property Forfeiture Program has two accounts. The *District Attorney Forfeiture Trust Account* is the holding account for seized, but not yet forfeited funds. The *Dangerous Substance Account* is for forfeited funds used by the District Attorney for drug related expenses.

Nowata County’s Property Forfeiture Program is called *Drug Account*.

The District Attorney does not have written policies and procedures and has not designed and implemented internal controls for the safeguarding and reporting of program funds. As a result, some deficiencies are noted in certain areas, which include the following:

**Washington County**

- Sequential receipts for monies received were not issued for the District Attorney Forfeiture Trust Account.
- Two (2) of the ten (10) disbursements tested in the Dangerous Substance Account did not have indication that goods and/or services had been received.
- One (1) of the ten (10) disbursements tested in the Dangerous Substance Account did not have an invoice attached to validate the expense.

**Nowata County**

- Two (2) of the seven (7) disbursements tested in the Drug Account did not have indication that goods and/or services had been received.
- One (1) of the seven (7) disbursements tested in the Drug Account did not have an invoice attached to validate the expense.

**Cause of Condition:** The District Attorney’s office does not have formal policies in place establishing policies and procedures for collections and to ensure disbursements are properly approved and have all supporting documentation attached for validation.

**Effect of Condition:** These conditions could result in inaccurate or improper disbursements for the District. In addition, without proper receiving information, invoices could be processed for goods and/or services that are not received by the District or that are not for District purposes.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
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**Recommendation:** OSAI recommends that management adopt written policies and procedures for the accounting of program funds and the maintenance of files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that the program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the process of approval by management and documentation of account disbursements.
- Guidelines to ensure that all disbursements of the District be properly supported with indication that the goods/services are received by the District.

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:** I will refer to my response in 1 above generally regarding the security of the process handling money from forfeitures. The addition of sequential receipts would add nothing to the process as receipts are already provided by the County Treasurer where the money is deposited. The disbursement without invoice, with the payee noted in the records, is an ongoing contract payment for the storage of seized and forfeited vehicles with semi-annual payments made. With the contract, no invoices are sent.

**Auditor Response:** Pre-numbered duplicate receipts should be issued for all collections received by the District Attorney's office. Documentation for all disbursements should be included with claims to support the expenditure and to provide adequate documentation to assist the reviewer in authorizing the expenditure.

**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 2015-4 – Unclaimed Bogus Check Restitution (Repeat Finding)**

**Condition:** Balances for the Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015. This is a cumulative amount as a result of vouchers not cashed by merchants and subsequently cancelled.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
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**Nowata County**

- Bogus Check Restitution (Merchant) had outstanding balances at June 30, 2015 totaling \$14,843.73 which could not be identified.

**Cause of Condition:** The District Attorney's office does not have formal policies establishing procedures to ensure that returned or unpaid vouchers are examined to determine the current status of the merchant for the reissuance of the restitution.

**Effect of Condition:** This condition resulted in the Bogus Check Restitution (Merchant) account not being properly cleared and merchants not receiving restitution payments in a timely manner.

**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:** This money will be sent to the District Attorneys Council for the Victim Compensation Fund.

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

**Finding 2015-5 – Inadequate Internal Controls Over the Accuracy of the Bogus Check Restitution Annual Report (Repeat Finding)**

**Condition:** As part of our review of District Attorney Programs, we ensure that amounts on the annual reports were reconciled with the County Treasurer's balances, and were accurately reflected in the amounts submitted to the District Attorneys Council (DAC). Our review reflected the following discrepancies:

**Bogus Check Restitution Annual Report:**

- At June 30, 2014, the amount "collected for victims" and the amount "paid to victims" was overstated by including the District Attorney fees in the amount of \$88,038.84.
- At June 30, 2015, the amount "collected for victims" and the amount "paid to victims" was overstated by including the District Attorney fees in the amount of \$64,546.08.

**Cause of Condition:** Annual reports are reviewed by no one other than the preparer to ensure amounts reported are accurate.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
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**Effect of Condition:** These conditions resulted in inaccurate annual reporting of disbursements, collections, and account balances submitted to the District Attorney's Council (DAC) for program fund activity.

**Recommendation:** OSAI recommends that management adopt written policies and procedures for the accounting and reporting of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that the program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the oversight of monthly reconciliations to the County Treasurer's account balances.
- Guidelines for accurate reporting of annual reports to the District Attorney's Council.
- Guidelines for and the reviewing the accuracy of the reporting process over annual reports.

**Management Response:** These reports have been corrected and the July 1, 2015 through June 30, 2016 report does not include this error.

**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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