

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 13
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

For the period of July 1, 2015 through June 30, 2017



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



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

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13**

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FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017

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

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

April 30, 2018

Kenny Wright, District Attorney
District 13
Delaware County Courthouse
Jay, Oklahoma 74346

Transmitted herewith is the statutory report for the District Attorney of District 13, Delaware and Ottawa County, Oklahoma (the District) for the period of July 1, 2015 through June 30, 2017.

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

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

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INTRODUCTORY INFORMATION

BOGUS CHECK RESTITUTION 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.



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Statutory Report

Kenny Wright, District Attorney
District 13
Delaware County Courthouse
Jay, Oklahoma 74346

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 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, 2015 through June 30, 2017.

Bogus Check and Supervision Programs:

- Determine that internal controls are designed and operating over the collections and disbursement 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, 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 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 disbursements for the Bogus Check Restitution Program and Supervision Program.

Drug Asset Forfeiture Program:

- Determine that internal controls are designed and operating over the collections and disbursement 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 disbursements 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 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, 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 Delaware or Ottawa 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

April 17, 2018

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2017-01 - Inadequate Internal Controls Over Segregation of Duties – Bogus Check Restitution Fee, Supervision Fee, and Drug Asset Forfeiture Programs (Repeat Finding)

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

Ottawa County

A lack of segregation of duties exists in the procedural process of the Drug Asset Forfeiture Program (Drug Task Force Account). One employee prepares and issues checks for disbursements, maintains ledgers, reconciles monthly reports to the County Treasurer and prepares the annual reports. There is no documentation of an independent review of monthly reconciliations or the annual report.

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution Fee and Supervision Fee Programs. One employee receives payments, prepares and delivers deposits to the County Treasurer. No one other than the preparer reviews the daily deposits for accuracy.

In addition, one employee prepares and issues checks for disbursements, reconciles monthly to the County Treasurer and prepares the annual reports for the Bogus Check Restitution Fee and Supervision Fee Programs. There is no documentation of an independent review of monthly reconciliations or the annual report.

Cause of Condition: Policies and procedures have not been designed and implemented to properly separate key accounting functions within the District'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 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 evidence of management review and approval of accounting functions.

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Management Response:

District Attorney: To the extent possible, based on being understaffed and underfunded, District 13 will attempt to segregate duties to ensure that no one employee is able to perform all accounting functions in any particular area. In the event that segregation is not possible due to limited personnel, District 13 will implement compensating controls which may include separation of key processes and/or critical functions, and management review and approval of accounting functions. No evidence exists that this vulnerability has been exploited in any way. While I am absolutely confident that no one has taken advantage of the system, I acknowledge the need for improvement.

I have drafted policies and procedures that address these issues. However, due to the continued underfunding of our office, we are still severely understaffed. As a result, the policies as written are impossible to comply with (although they do contain a caveat in relation to impossibility of compliance due to understaffing). I am reluctant to implement a policy with which we cannot comply. The policy was drafted with the assistance of OSAI, other District Attorney Districts, and input from all my staff to which it would apply. My employees, for which this policy would apply, are aware of the problems and our goals. We will continue to look at options to alleviate the risks we face while being most mindful of our core fundamental 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, reconciling and depositing cash and issuing checks should be separated among employees.

Finding 2017-02 – Internal Controls Over Information Technology and Noncompliance of the Drug Asset Forfeiture Program (Repeat Finding)

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has established written policies and procedures, but has not designed or implemented the controls for the safeguarding and reporting of program funds. As a result, we noted the following:

Information Technology

- Employees have the capability to delete payments and perform write-off adjustment procedures in the software without oversight. In addition, no one reviews deletions or write-off adjustments software reports periodically for unusual activity.

Drug Asset Forfeiture Program

Ottawa County

- An updated forfeiture case summarization and/or inventory listing of seized and/or forfeited property is not properly maintained.

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Cause of Condition: The District Attorney's office is not adhering to its formal policies for the periodic review and approval of payment adjustments and/or write-off processes, nor compliance with state statute to ensure the status of civil forfeiture cases and the disposition of property inventory are properly documented and maintained.

Effect of Condition: These conditions resulted in noncompliance with state statute. Further, these conditions could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, and the accounting of funds. Also, these conditions could affect case activity and the location and/or disposition of seized/forfeited property.

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting of program funds, maintenance of client files and documentation of forfeiture cases and property. Implementing these recommendations would ensure all employees are aware of their duties and responsibilities and that each program is properly accounted for and ensure compliance with applicable laws and regulations.

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

Management Response:

District Attorney: We have designed a plan to address the concerns about write-off adjustments. I will require that any write-off be preapproved in writing by myself or my 1st Assistant. The employee will submit a request in writing and attach supporting documentation justifying the request. If approved, the employee will execute the write-off adjustment process and maintain the written request and approval in a specified file. The Finance Coordinator will review write-off adjustment activity in each county office regularly to identify failure to follow this policy and any anomalous activity.

We will also be implementing a new record keeping worksheet for forfeiture case summarization and inventory listing of seized and forfeited property. Our previous attempts of having this function divided between four or five people has been ineffectual. These records will now be kept in a new digital worksheet by the finance coordinator. The Drug Task Force Investigators and secretarial staff who deal with the civil cases, will be required to report all necessary information to the Finance Coordinator.

Criteria: Title 63 O.S. § 2-506(K) states in part, *“Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section...”*



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