

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 13
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

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13**

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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) 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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September 1, 2016

Kenny Wright, District Attorney
District 13
Ottawa County Courthouse
Miami, Oklahoma 74354

Transmitted herewith is the statutory report for the District Attorney of District 13, Ottawa and Delaware 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". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

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

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF 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 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.



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Statutory Report

Kenny Wright, District Attorney
District 13
Ottawa County Courthouse
Miami, Oklahoma 74354

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 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, 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 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.

Property 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, 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 Ottawa or Delaware 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

July 12, 2016

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

SCHEDULE OF FINDINGS AND RESPONSES

Finding-2015-1 – Inadequate Segregation of Duties – Bogus Check Restitution, Supervision Fees, and Property Forfeiture Programs

Condition: The following are instances of the lack of segregation of duties in personnel within District Attorney programs:

Ottawa County

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution (Merchant), Drug Task Force (Drug Assessments), and Supervision Fee Programs. The same employee who receives and enters payments can prepare and deliver deposits, prepare expenditures, and sign vouchers. In addition, no one other than the preparer reviews the deposit for accuracy.

Delaware County

A lack of segregation of duties exists in the procedural process of the Property Forfeiture Program (DA Trust Fund and Drug Task Force Accounts). One employee, receives payments, prepares and delivers deposits, prepares expenditures, and authorizes vouchers.

Cause of Condition: Policies and procedures have not been designed to properly separate key accounting functions.

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 management review and approval of accounting functions.

Management Response: To the extent possible, based on being understaffed and underfunded, District 13 will 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

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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.

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 – Internal Control Environment - Written Policies and Procedures for Bogus Check Restitution and Supervision Fee Programs

Condition: As part of our review of District Attorney 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

- Employees do not log out of their computers when away from their workstations, nor do their computers time-out during periods of inactivity.

Supervision Fee Program

Ottawa County

- Supervision overpayment refund expenditures do not have supporting documentation to validate the purpose of the expense.

Cause of Condition: The District Attorney's office does not have formal policies in place to guard against unauthorized access to computer data and to ensure expenditures are properly approved by management and have supporting documentation.

Effect of Condition: These conditions could result in unauthorized access to data and improper expenditures for the District.

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting of program funds. 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 process of approval by management and documentation of account expenditures.

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

- Guidelines for the implementation of a time-out security measure for computers to guard against unauthorized access when an employee is away from their station.
- Policies implemented instructing employees to log-out of their computers when leaving their station to prevent unauthorized access.

Furthermore, we recommend management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organizations 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 13 will develop written policies and procedures for bogus check restitution and supervision fee programs. I was sworn in as the elected district attorney in January 2015. At that time, the only written policy in effect in the District was a Use of Force Policy. Since being sworn in, I have implemented a general employee handbook of policy and procedures, a written policy specific to assistant district attorney and their duties, and a conductive electrical weapon policy. District 13 will adopt the best practices from other districts in the state in the development of the new policies. District 13 will require employees to log off their computers when they will be gone from their stations for more than a few minutes. District 13 will also examine the possibility of having our IT department set up an automatic time-out after a set period of inactivity. Management will continue to identify, analyze, and manage risks. This will be an ongoing process and will address changes in our systems, environment, and personnel to ensure program funds are properly accounted for and protected. It is important to note that there is no evidence of either unauthorized access to data or improper expenditures. I am confident that neither of these things has happened, but agree with the recommendations to improve the system.

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 3 – Inadequate Internal Control Environment and Noncompliance Over Written Policies and Procedures for District Attorney Drug Fund (Property Forfeiture)

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney does not have written policies and procedures nor designed and implemented internal controls for the safeguarding and reporting of program funds. Some deficiencies were noted in certain areas, which include the following:

Ottawa County

- A county-wide identification security system and badges were purchased for employees of the Delaware County courthouse in the amount of \$4,746.00. While this expenditure is allowable through other unrestricted office accounts, it should not have been expended through the District Attorney Drug Fund whose purpose of the monies is restricted (cited below).

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

Delaware County

- 4 of the 5 expenditures tested were not properly approved.
- 3 of the 5 expenditures tested did not have adequate supporting documentation attached.

Cause of Condition: The District Attorney's office does not have formal policies in place establishing procedures for collections, disbursements, and financial reporting for the Drug Task Force (Property Forfeiture) account to ensure that restricted funds are collected and expended in accordance with 63 O.S. § 2-506L.3 (cited below in Criteria).

Effect of Condition: These conditions resulted in noncompliance with state statute. These conditions could result in inaccurate or improper expenditures for the District. In addition, these conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting of program funds and 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 expenditures.
- Guidelines for the disbursement of restricted funds.

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 13 will develop written policies and procedures for the District Attorney Drug Fund. District 13 will adopt the best practices from other districts in the state and seek further advice on the development of these policies from the Oklahoma State Auditor and Inspector's Office. The policies and procedures will address the accounting of program funds and the maintenance of files. They will also cover guidelines for the process of approval by management and the documentation of account expenditures. District 13 will also incorporate the guidelines for the disbursement of restricted funds. This will be an ongoing process and will address changes in our systems, environment, and personnel to ensure program funds are properly accounted for and protected. The expenditure for the county-wide identification security system and badges was made by my predecessor. I have no knowledge concerning the justification of that expense. I am not familiar with the program or the expenditure and have insufficient facts to determine whether the expenditure was appropriate or not. It is important to note that, with the exception of that one questionable expense, there is no evidence of inaccurate or improper expenditures, unrecorded transactions, misstated financial reports, undetected

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

errors, or misappropriation of fund. I am confident that none of these things has occurred, but agree with the recommendations to improve the system.

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.

In addition, 63 O.S. § 2-506L.3, states in part,

“...said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention, and drug abuse education...”

Finding 4 – Unclaimed Bogus Check Restitution

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. They are as follows:

Ottawa County

- Bogus Check Restitution (Merchant) had outstanding balances at June 30, 2015 totaling \$8,246.93 which could not be identified.

Delaware County

- Bogus Check Restitution (Merchant) had outstanding balances at June 30, 2015 totaling \$6,716.74 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 restitution fund not being properly cleared and victims not receiving restitution payments in a timely manner.

Recommendation: OSAI recommends 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 13 will adopt formal policies to ensure that, to the extent possible, the restitution fund is properly cleared and that victims receive their restitution as quickly as possible. My understanding is that these balances have accrued over several decades. Certain unique situations arise over time which contribute to this accrual and are absolutely unavoidable. No system, formal or

**KENNY WRIGHT, DISTRICT ATTORNEY
DISTRICT 13
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

otherwise, can prevent this from occurring. Despite this, District 13 agrees that a written policy addressing the identification and processing of unpaid or returned vouchers should be implemented. District 13 will attempt to determine whether any means exists to identify any merchants or victims with satisfactory claims to the unidentified funds. District 13 will also work with OSAI and other state agencies to determine what should be done with the unidentified balance once all efforts to identify legitimate claimants are exhausted.

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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