

STATUTORY REPORT
DISTRICT ATTORNEY
DISTRICT 15

**BOGUS CHECK RESTITUTION PROGRAM, SUPERVISION
PROGRAM, RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period July 1, 2007 through June 30, 2011



*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

**LARRY MOORE, DISTRICT ATTORNEY
DISTRICT 15
STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM
FOR THE PERIOD OF JULY 1, 2007 THROUGH JUNE 30, 2011**

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 Collection, pursuant to 74 O.S. § 3105.B.



Oklahoma State Auditor & Inspector

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March 20, 2012

Larry Moore, District Attorney
District 15
Muskogee County Courthouse
220 State Street
Muskogee, Oklahoma 74401

Transmitted herewith is the statutory report for the District Attorney of District 15, Muskogee County, Oklahoma (the District) for the period of July 1, 2007 through June 30, 2011.

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

**LARRY MOORE, DISTRICT ATTORNEY
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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.

RESTITUTION AND DIVERSION PROGRAM

The restitution and diversion program was created by the Oklahoma Legislature in 2001 as a special type of deferred prosecution program. The legislation required that each district attorney create such a program. The purpose of the program is to allow the district attorney the discretion to divert criminal complaints involving property crimes from criminal court and to collect restitution for victims.

The program allows the district attorney's office to receive, disburse, and monitor victim restitution payments. The program offers an alternative way to address criminal conduct.

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 Program. 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.

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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

Larry Moore, District Attorney
District 15
Muskogee County Courthouse
220 State Street
Muskogee, Oklahoma 74401

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 of July 1, 2007 through June 30, 2011.

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 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 expenditures 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 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 statements of Muskogee 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, appearing to read "Gary A. Jones", with a long horizontal flourish extending to the right.

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

January 11, 2012

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 1 – Segregation of Duties – Bogus Check, Restitution and Diversion, and DA Evidence Seizure (Property Forfeiture) Accounts

Condition: A lack of segregation duties exists in the payments of collections and deposits in the Bogus Check Restitution Program, Restitution and Diversion Program, and the Property Forfeiture Programs Divisions. One employee who receipts funds also balances the receipts to daily deposits, posts deposits to individual accounts, and delivers the deposits to the County Treasurer’s office.

One employee reconciles the Property Forfeiture Program and Supervision Fee Program ledgers to the County Treasurer. However, no one other than the preparer reviews the reconciliations to ensure accuracy of the amounts reconciled.

Cause of Condition: 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: 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: The lack of segregation of duties within the Bogus Check Program stems from limited personnel. This has now been remedied in part with the Bogus Check Clerk taking the payments and posting them to the accounts, but the Victim/Witness Coordinator now prepares the deposits and balances the receipts to the daily deposits and a third person, a paralegal, takes the deposits to the County Treasurer’s office. However this can’t be remedied completely due to limited funding and personnel.

The lack of segregation of duties within the Property Forfeiture Program also stems from limited personnel. However, any forfeiture monies that are presented for deposit to this office are counted in the presence of the agency’s representing party presenting the funds along with an additional District Attorney employee in addition to the DA employee counting the monies. These receipts are now written

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by the observing District Attorney employee and these funds are escorted to the County Treasurer's office by the counter and the observing DA employee.

Again, the lack of segregation of these duties also stem from limited personnel. However, this has been remedied by having the District Attorney to review the reconciliation and initial off on the review.

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 2 – Internal Control Environment - Written Policies and Procedures for District Attorney Programs

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, cash balances and reporting of funds to the District Attorneys Council (DAC). 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:

Restitution and Diversion Program – Annual Reports, Treasurer's Reconciliations, and Maintenance of Records

- FY09 Restitution and Diversion Annual Report beginning balance and collections did not agree to the County Treasurer's totals for the year.
- FY08, FY09, FY10 – three of the five Restitution and Diversion Program Defendant files could not be located for testwork purposes.

Supervision Fee Program – Annual Reports, Treasurer's Reconciliations, and Daily Deposits

- FY10 Supervision Fee Program Annual Report total collections and total expenditures did not agree to the County Treasurer's totals for the year. An error of \$100.00 was noted in the Supervision Program ledger.
- FY11 Supervision Fee Program Annual Report total collections and ending balance did not agree to the County Treasurer's totals for the year. A \$20.00 difference was noted on both totals.
- The District Attorney's office prepares deposits once a week for the Supervision Fee Program. Collections are accumulated in a locked filing cabinet for each day's payments until the deposit

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can be prepared. The locked cabinet can be accessed by several individuals within the District Attorney's office.

Bogus Check Restitution Program – Recordkeeping and Treasurer's Reconciliations

- Ledgers for Bogus Check Accounts #1000 and #1001 were not maintained properly. Though the ledgers reflected the Treasurer's balance, we noted that cancelled vouchers, payments, and other transactions were not documented accurately for reconciliation purposes. The 6-30-09 Account #1001 ending balance was \$1,000.00 greater than what the Treasurer's records reflected. After further review, we determined that once the District Attorney's office established Just Ware for bogus check records, the Bogus Check Clerk quit maintaining an itemized reconciliation and relied on the County Treasurer's records only.

Cause of Condition: The District Attorney's office does not have formal policies in place establishing procedures for collections and disbursements of the Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Program accounts. Further, procedures have not been designed to have someone other than the preparer review reconciliations for accuracy.

Effect of Condition: This could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, expenditure transactions, and the accounting of funds. In addition, this condition 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 the maintenance of client files. Implementing this recommendation 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 applying restitution payments to District Attorney fees and remitting restitution payments to merchants/victims. (ie. 50/50 split, merchants/victims are paid restitution before District Attorney fees are collected, etc.).
- Guidelines for the disposition of monies in an account when a merchant cannot be located.
- Guidelines for the oversight of the daily collection process and the deposit of funds.
- Guidelines for the oversight of monthly reconciliations to the County Treasurer's account balances.
- Guidelines for the process of approval and documentation of account expenditures.

Furthermore, we recommend management identify, analyze and manage risks. Management should also assess the quality and effectiveness of the organizations internal control process overtime 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.

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Management Response: The Restitution and Diversion Program files that could not be located were files from previous administration and the monies deposited for FY08, FY09, and FY10 are payments on these files. The \$100.00 error on the FY10 and the \$20.00 error on the FY11 Supervision Program Annual Reports were due to clerical error. Changes have already been implemented by upgrading from manual ledger entries to using QuickBooks, a computerized ledger and report system, to hopefully avoid such errors in the future. The deposits were prepared once a week, which is more often than required by statute of every 10 days. The only form of payment that is accepted in the Muskogee County District Attorney's Office is money order/cashier check or law firm checks. The locked cabinet is not readily accessible by several individuals but accessible to a select few in case of an absence of the key holders. The previous Bogus Check Clerk is no longer employed with the Muskogee County District Attorney's Office. This issue has been remedied by the change of personnel and the proper training and the current employee's previous experience of bookkeeping. The current employee has been trained to maintain itemized reconciliation and bogus check registers within JustWare and reconcile them to the County Treasurer's records without solely relying on their records alone. Although not in writing, verbal policies are in effect addressing all issues covered in recommendations. Such policies are being reduced to writing based on the State Auditor's advice.

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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