

**DISTRICT ATTORNEY
DISTRICT 15**

**BOGUS CHECK
RESTITUTION FUND**

**FOR THE YEAR ENDED
JUNE 30, 2006**



STATUTORY REPORT



Oklahoma State Auditor
& Inspector

**JOHN DAVID LUTON, DISTRICT ATTORNEY
DISTRICT 15
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
FOR THE YEAR ENDED JUNE 30, 2006**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
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August 9, 2010

Larry D. Moore, District Attorney
District 15
Muskogee County Courthouse
Muskogee, Oklahoma 74402

Transmitted herewith is the statutory report for the District Attorney of District 15, Muskogee County, Oklahoma (the District) for the fiscal year ended June 30, 2006.

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.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our procedures.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and to issue reports that serve as a management tool to the State to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Steve Burrage".

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

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INTRODUCTORY INFORMATION

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.

STATE AUDITOR AND INSPECTOR

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Statutory Report

John David Luton, District Attorney
District 15
Muskogee County Courthouse
Muskogee, Oklahoma 74402

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. § 114, we have performed each of the following procedures as it relates to the records of the Bogus Check Restitution Fund for the fiscal year 2006.

- Examine fees to determine that the correct fees were assessed, receipted, and deposited in compliance with 28 O.S. § 153.
- Determine whether expenditures were used to defray lawful expenses of the District Attorney's office in accordance with 22 O.S. § 114; whether expenditures were supported by invoices and approved claims; and that goods or services paid for were received.
- Determine whether the fund reconciles to the County Treasurer's records.
- Determine that the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits and total expenditures and that expenditures were properly classified and presented.

All information included in the financial records of the bogus check restitution program is 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 general-purpose financial statements of Muskogee County.

Based on our procedures performed, and with respect to items tested, District 15 was properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153; expenditures were used to defray lawful expenses of the District Attorney's office in accordance with 22 O.S. § 114; expenditures were supported by invoices and approved claims; goods or services paid for were received; the fund balance reconciled to the County Treasurer's records; the District Attorney prepared and submitted an annual report to the District Attorneys Council; and expenditures were properly classified and presented. In performing the procedures, we noted a matter of restitution agreements, and our finding is presented in the accompanying schedule of findings and responses.

We have included in this report information from the Bogus Check Restitution Annual Report prepared by District 15, which was submitted to the District Attorneys Council.

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

Sincerely,

A handwritten signature in blue ink that reads "Steve Burrage". The signature is written in a cursive, flowing style.

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

May 19, 2010

**JOHN DAVID LUTON, DISTRICT ATTORNEY
DISTRICT 15
STATUTORY REPORT
JUNE 30, 2006**

BOGUS CHECK RESTITUTION FUND

COLLECTION INFORMATION

Number of checks received from merchants	<u>3,001</u>	
Dollar amount of checks received		<u>\$ 295,511</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2005		\$ 63,856
Number of Restitution checks collected	<u>2,008</u>	
Amount in Restitution collected for merchants		183,285
Cancelled Vouchers		1,241
Amount in Restitution paid to merchants		<u>182,756</u>
Ending Restitution Balance at June 30, 2006		<u>\$ 65,626</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney Fee Balance at July 1, 2005		\$ 264,045
Amount of District Attorney fees collected during the period		191,259
Expenditures:		
Personnel Costs	147,325	
Maintenance and Operation Costs	11,564	
Other Expenses	<u>35,000</u>	
Total Expenditures		<u>193,889</u>
Ending District Attorney Fee Balance at June 30, 2006		<u>\$ 261,415</u>

Source: District 15 Bogus Check Restitution Annual Report (for informational purposes only)

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2006-1 – Restitution Agreement (Repeat Finding)

Criteria: Title 22 O.S. § 114.A states:

The district attorney may enter into a written restitution agreement with the defendant to defer prosecution on a false or bogus check for a period to be determined by the district attorney, not to exceed two (2) years, pending restitution being made to the victim of the bogus check as provided in this section.

Guidelines for Operation of the Bogus Check Restitution Program (as adopted by the District Attorneys Council on July 24, 1996) states:

Whenever an offender agrees to make payments through the Bogus Check Restitution Program a restitution agreement should be signed, which means that the program should have a restitution agreement for an offender even if the offender makes the entire payment at one time.

In those cases in which an offender tenders payments without a restitution agreement, however, and if the offender also refuses or neglects to execute a restitution agreement, then the program should accept and process the payment or payments and should consider the compliance with the Notice of Complaint as the restitution agreement.

The agreement should spell out what the fees, restitution and other charges are. It should be signed by the offender and a representative of the district attorney. The method of payment (money order, exact cash only, etc.) should be included in the agreement as well as the time of payment.

Condition: During our test work of offender files, four out of ten tested did not contain a restitution agreement.

Effect: The District Attorney may be in violation of state statutes and guidelines established by the District Attorneys Council on the Bogus Check Restitution Program.

Recommendation: OSAI recommends each offender's file contain a restitution agreement. OSAI further recommends the restitution agreement be signed by the offender as well as the District Attorney's Office.

Views of responsible officials and planned corrective actions: The FYE June 30, 2005, 2006 and the first 6 months of 2007 were for periods under previous administration. I have reviewed all of the matters and these have been corrected and these matters are no longer being handled this way.



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