

**DISTRICT ATTORNEY
DISTRICT 15**

**BOGUS CHECK
RESTITUTION FUND**

**FOR THE YEAR ENDED
JUNE 30, 2005**



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, 2005**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



2300 N. Lincoln Boulevard State Capitol, Room 100 Oklahoma City, OK 73105-4801 Phone (405) 521-3495 Fax (405) 521-3426 www.sai.ok.gov

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, 2005.

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". The signature is written in a cursive style.

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 2005.

- 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, 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. With respect to properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153, our finding is presented in the accompanying schedule of findings and responses. In performing the procedures, we noted a matter of restitution agreements, and our finding is presented in the 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,



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

May 19, 2010

**JOHN DAVID LUTON, DISTRICT ATTORNEY
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BOGUS CHECK RESTITUTION FUND

COLLECTION INFORMATION

Number of checks received from merchants	<u>3,414</u>	
Dollar amount of checks received		<u>\$ 383,639</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2004		\$ 55,255
Number of Restitution checks collected	<u>2,346</u>	
Amount in Restitution collected for merchants		173,942
Cancelled Vouchers		1,349
Amount in Restitution paid to merchants		<u>166,690</u>
Ending Restitution Balance at June 30, 2005		<u>\$ 63,856</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney Fee Balance at July 1, 2004		\$ 208,689
Amount of District Attorney fees collected during the period		184,292
Expenditures:		
Personnel Costs	117,184	
Maintenance and Operation Costs	<u>11,752</u>	
Total Expenditures		<u>128,936</u>
Ending District Attorney Fee Balance at June 30, 2005		<u>\$ 264,045</u>

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

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2005-1 – Restitution Agreement

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, one 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 Attorney's 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.

Finding 2005-2 – Composition of Deposits

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, all monies received should be receipted and receipts should all be accounted for, issued in sequential order, denote type of payment received, retained and defaced if voided.

Condition: During our test work of receipts, we found the following exceptions:

- On 1/27/2005 we noted a receipt for \$50.00 that denoted the type of payment received was a money order, but after scanning bank records we could not locate any record of the money order.
- On 11/3/2004 we noted that the total amount of monies receipted as cash did not agree to amount deposited with the County Treasurer. Our test work showed there was a \$40.00 difference between receipted amount and deposited amount. Also on this date, we noted there were two receipts that were issued on 11/2/2004 and were deposited on 11/3/2004.
- On 1/10/2005 we noted that a receipt denoted that the type of payment received was a money order, but after scanning bank records we cannot see where this money order was deposited with the County Treasurer.
- On 1/13/2005 we noted a receipt denoted the type of payment received was cash. Upon review of the bank records we discovered the payment received for that receipt was actually a money order.
- On 1/25/2005 we noted there were two receipts in the amount of \$220.00, which denoted payments as being cash, but on the depository ticket with the Treasurer there was no cash deposited. We also noted that the deposit on this day did not equal the deposit ticket.
- On 5/3/2005 we noted a receipt that denoted the type of payment received was cash, but on the deposit ticket the receipt was recorded as a money order. Upon review of the bank records, we determined the payment received was a money order.
- On 5/5/2005 we noted a receipt that denoted the type of payment received as a money order for \$50.00, but we did not see the money order on the depository ticket. Upon review of the bank records we did not see the money order deposited. We also noted that the amount of our cash receipts did not match the amount on the deposit ticket with the Treasurer by \$50.00.
- On 4/21/2005 we noted there were two payments received in the amount of \$150.00 that were not receipted. The payments were deposited with the County Treasurer.

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Effect: These conditions could result in undetected errors, misstated financial reports, and misappropriation of funds.

Recommendation: OSAI recommends the District Attorney's Bogus Check Division issue receipts for all money received, receipts should denote the type of payment received, be accounted for, issued in sequential order, retained if voided, defaced if skipped, and deposits be made daily.

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.



**OFFICE OF THE STATE AUDITOR AND INSPECTOR
2300 N. LINCOLN BOULEVARD, ROOM 100
OKLAHOMA CITY, OK 73105-4896**

WWW.SAI.OK.GOV