

STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 17  
BOGUS CHECK RESTITUTION PROGRAM  
SUPERVISION PROGRAM  
RESTITUTION AND DIVERSION PROGRAM  
PROPERTY FORFEITURE PROGRAM**

For the period of July 1, 2013 through June 30, 2016



*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

**MARK MATLOFF, DISTRICT ATTORNEY  
DISTRICT 17**

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PROPERTY FORFEITURE PROGRAM**

**FOR THE PERIOD OF JULY 1, 2013 TO JUNE 30, 2016**

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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](http://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

January 9, 2017

Mark Matloff, District Attorney  
District 17  
McCurtain County Courthouse  
Idabel, Oklahoma 74745

Transmitted herewith is the statutory report for the District Attorney of District 17, McCurtain, Choctaw, and Pushmataha County, Oklahoma (the District) for the period of July 1, 2013 through June 30, 2016.

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

**MARK MATLOFF, 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 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.

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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.



# Oklahoma State Auditor & Inspector

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## Statutory Report

Mark Matloff, District Attorney  
District 17  
McCurtain County Courthouse  
Idabel, Oklahoma 74745

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, 2013 through June 30, 2016.

### 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 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, 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 statement of McCurtain, Choctaw, or Pushmataha 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 fluid and cursive, with the first letters of each name being capitalized and prominent.

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

November 14, 2016



MARK MATLOFF, DISTRICT ATTORNEY  
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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2016-1 – Inadequate Segregation of Duties – Bogus Check Restitution, Supervision Fee, and Property Forfeiture Programs (Repeat Finding)**

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

**McCurtain County**

A lack of segregation of duties exists in the procedural process of the Property Forfeiture Program. One employee prepares and delivers deposits, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no documentation of an independent review of the monthly reconciliation or the annual report.

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution Program. One employee prepares and delivers deposits, prepares expenditure claims, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. In addition, the same employee utilizes the District Attorney's signature stamp for the approval of expenditures. There is no documentation of an independent review of deposits, monthly reconciliation, or the annual report.

A lack of segregation of duties exists in the procedural process of the Supervision Fee Program. One employee prepares and delivers deposits, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no documentation of an independent review of deposits, monthly reconciliation, or the annual report.

**Choctaw County**

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution Program. One employee maintains ledgers, prepares expenditure claims, reconciles monthly to the County Treasurer and prepares the annual reports. In addition, the same employee utilizes the District Attorney's signature stamp for the approval of expenditures. There is no documentation of an independent review of deposits, monthly reconciliation, or the annual report.

**Cause of Condition:** Policies and procedures have not been designed and implemented 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. Additionally, use of signature stamps by someone other than the District Attorney could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

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**Recommendation:** The Oklahoma State Auditor & 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. Additionally, OSAI recommends signature stamps be used only by the individual whose name appears on the stamp.

**Management Response:** Management is aware of the importance of segregation of duties and will continue to diligently work to achieve this goal.

**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 maintaining ledger, preparing expenditure claims, approving claims, reconciling with the Treasurer should be segregated.

**Finding 2016-2 – Inadequate Internal Control Environment - Written Policies and Procedures for Bogus Check Restitution and Supervision Fee Programs (Repeat Finding)**

**Condition:** As part of our review of District Attorney's accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney does have written policies and procedures and/or has designed internal controls for the safeguarding and reporting of program funds. However, we did note deficiencies in certain areas, which include the following:

**Information Technology**

**McCurtain County**

- Employees can delete or void payments without approval.
- Voided receipts, deletions, and write-off reports are viewed periodically. However, there is no documentation of this review.
- Employees do not log off of their computers when leaving their station nor does the software/computer time-out during periods of inactivity.

**Choctaw County**

- A time-out security measure has not been assigned in the District's software system during periods of inactivity.

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**Pushmataha County**

- Employees do not log off of their computers when leaving their station. Also, even though the system times-out employees after a period of inactivity, the period of one hour is long enough to allow unauthorized access to files and potential changes to data.

**Bogus Check Restitution Program**

**McCurtain County**

- We noted that eight (8) of the fifteen (15) Bogus Check disbursements tested did not have an independent verification that goods and/or services had been received (the requisitioning officer also approved the receiving report).
- We noted that fourteen (14) of the fifteen (15) Bogus Check disbursements tested were approved using the District Attorney's signature stamp. The requisitioning office uses the stamp to approve disbursements

**Choctaw County**

- We noted that fourteen (14) of the fifteen (15) Bogus Check disbursements tested were approved using the Assistant District Attorney's signature stamp. The requisitioning office uses the stamp to approve disbursements.
- We noted that four (4) of the fifteen (15) Bogus Check disbursements tested did not have an independent verification that goods and/or services had been received (the requisitioning officer also approved the receiving report).
- We noted that one (1) of the fifteen (15) Bogus Check disbursements tested did not have a claim prepared and approved.

**Pushmataha County**

- Fifteen (15) Bogus Check disbursements tested did not have an independent verification that goods and/or services had been received (the requisitioning officer also approved the receiving report).

**Supervision Fee Program**

**McCurtain County**

- We noted that one (1) of the fifteen (15) Supervision Fee disbursements tested did not have an independent review of goods and services.

**Cause of Condition:** The District Attorney's office is not monitoring policies (District-wide) to ensure disbursements are properly approved and have all supporting documentation and to guard against unauthorized access to computer data.

**Effect of Condition:** These conditions could result in unauthorized access to financial information or improper disbursements for the District. In addition, without proper receiving information, invoices

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could be processed for goods/services that were not received by the District or that were not for District purposes.

**Recommendation:** OSAI recommends that management follow the written policies and procedures of the office and implement further internal controls for the safeguarding of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and ensure 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 and documentation of account expenditures.
- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.
- Guidelines for system security and system inactivity management.

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:** Steps have been taken for review of the inadequate internal controls issues raised and have taken the auditor suggestions into consideration.

**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 2016-3 – Inadequate Internal Control Environment and Noncompliance Over Forfeited Inventories (Repeat Finding)**

**Condition:** As part of our review of District Attorney's accounts and records, we tested receipts, disbursements and, cash balances. The District Attorney has written policies and procedures and/or has designed and implemented internal controls for the safeguarding and reporting of program funds. However, some deficiencies were noted in certain areas, which include the following:

**McCurtain, Choctaw, and Pushmataha County**

- We were unable to locate a seized gun and \$1,143.43 in cash while performing verification of forfeiture case inventory.
- We were unable to locate \$358.00 in cash while performing verification of forfeiture case inventory.

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- During our review, we noted that two (2) cases had property returned to the defendant but we were unable to verify that it was returned due to the District Attorney's office not having a signed receipt or signed documentation for the return/release of the property.
- The District does not maintain a property forfeiture inventory listing for all counties.
- We noted that three (3) of the fifteen (15) disbursements tested did not have an original and/or itemized invoice attached to the claim.
- We noted that five (5) of the fifteen (15) disbursements did not have a receiving report or an independent verification that goods and/or services had been received.

**Cause of Condition:** The District Attorney's office does not have formal policies established for collections, disbursements, and financial reporting for the Property Forfeiture account to ensure that internal controls are being implemented. Further, forfeiture cases are not being followed for the tracking of civil forfeiture cases and the disposition of property inventory.

**Effect of Condition:** These conditions could result in employee error for the reporting and documentation of seized property, disbursement transactions, and the accounting of funds. In addition, these conditions could also affect case activity and the location of seized property.

**Recommendation:** OSAI recommends that management adopt written policies and procedures for the accounting of program funds and the 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 oversight and documentation of case file maintenance and status of forfeited inventory.
- Guidelines for the oversight of the return/release of seized property.
- Guidelines for the process of approval and documentation of account disbursements.

OSAI recommends 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.

Further, OSAI recommends that the District Attorney investigate the missing seized items and determine the disposition of the items.

**Management Response:** The Auditor's recommendations will be taken into consideration and appropriate action taken.

**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

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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.

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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