

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 18

**BOGUS CHECK RESTITUTION FUND, RESTITUTION AND
DIVERSION FUND AND DISTRICT ATTORNEY SUPERVISION
FEE FUND**

For the year ended June 30, 2009



*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

**JIM BOB MILLER, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
RESTITUTION AND DIVERSION FUND AND
DISTRICT ATTORNEY SUPERVISION FEE FUND
FOR THE YEAR ENDED
JUNE 30, 2009**

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, and 991f-1.1, 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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April 11, 2012

Farley Ward, District Attorney
District 18
Pittsburg County Courthouse
McAlester, Oklahoma 74501

Transmitted herewith is the statutory report for the District Attorney of District 18, Pittsburg and Haskell Counties, Oklahoma for the fiscal year ended June 30, 2009.

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 a long horizontal stroke at the end.

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

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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.



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Statutory Report

Jim Bob Miller, District Attorney
District 18
Pittsburg County Courthouse
McAlester, Oklahoma 74501

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, and 991.f-1.1, we have performed the following procedures as they relate to the records of the Bogus Check Restitution Fund, Restitution and Diversion Fund, and the District Attorney Supervision Fee Fund for the fiscal year June 30, 2009.

- 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 the accounts to the County Treasurer's official depository records.
- 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 Restitution and Diversion Program.

All information included in the financial records of the bogus check restitution program, restitution and diversion program, and district attorney supervision fee 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 Haskell or Pittsburg 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.

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

April 6, 2012

SCHEDULE OF FINDINGS AND RESPONSES

Finding 1 – Segregation of Duties – Bogus Check, Restitution and Diversion, Supervision Fee Programs

Condition: A lack of segregation of duties exists in the payments of collections and deposits in the Bogus Check Restitution Program, Restitution and Diversion Program, and Supervision Fee Program divisions. The duties of receipting and depositing of funds are not adequately separated.

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: Three people have separate assignments for Bogus Checks, Restitution and Diversion, and Supervision Fees. Each helps the others, however, individuals do respective deposits which are now checked by another person in the office, i.e. Bogus Check deposit is reviewed by either the Restitution person, or the Supervision Fee person, etc. Receipt numbers are now being checked by the Finance Coordinator and reviewed to insure that they are in sequential order and that none are being skipped or deleted.

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:

Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Programs

- The District Attorney’s office utilizes the Just Ware program. Receipt numbers are coded with the last two numbers reflecting 18 or 68. This causes the receipts to be issued as every fiftieth number. Also, it was noted that deleted receipts were not reflected on the daily activity report and information pertaining to the deleted receipts could not be retrieved. No records were retained to determine why receipts were deleted.
- The District Attorney’s office did not assess or collect the proper fees for three of the five cases tested for the Restitution and Diversion program.
- The District Attorney’s office did not prepare claims for expenditures for the Restitution and Diversion Program. In addition, documentation (ie. receiving reports, etc.) was not retained to verify that goods and/or services had been received.

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.

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.

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- 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.

Management Response: The District Attorneys Council IT Division was contacted and they restricted access for users, eliminating the possibility that receipts can be deleted. Claim forms for all expenditures are being completed and signed by the District Attorney or First Assistant District Attorney for Restitution and Diversion. The Bogus Check Director allocates payments to the first check turned in, the corresponding fees, then pays the following check, etc. up to the most recent. Our office is currently working on a policies and procedures guideline.

The Bogus Check Director located merchants and sent money to them. Remaining funds of merchants that were not located were sent to the Victim's Compensation Fund. When the Bogus Check Director receives the cancelled voucher report from the Treasurer, she attempts to locate the merchant and send the money.

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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