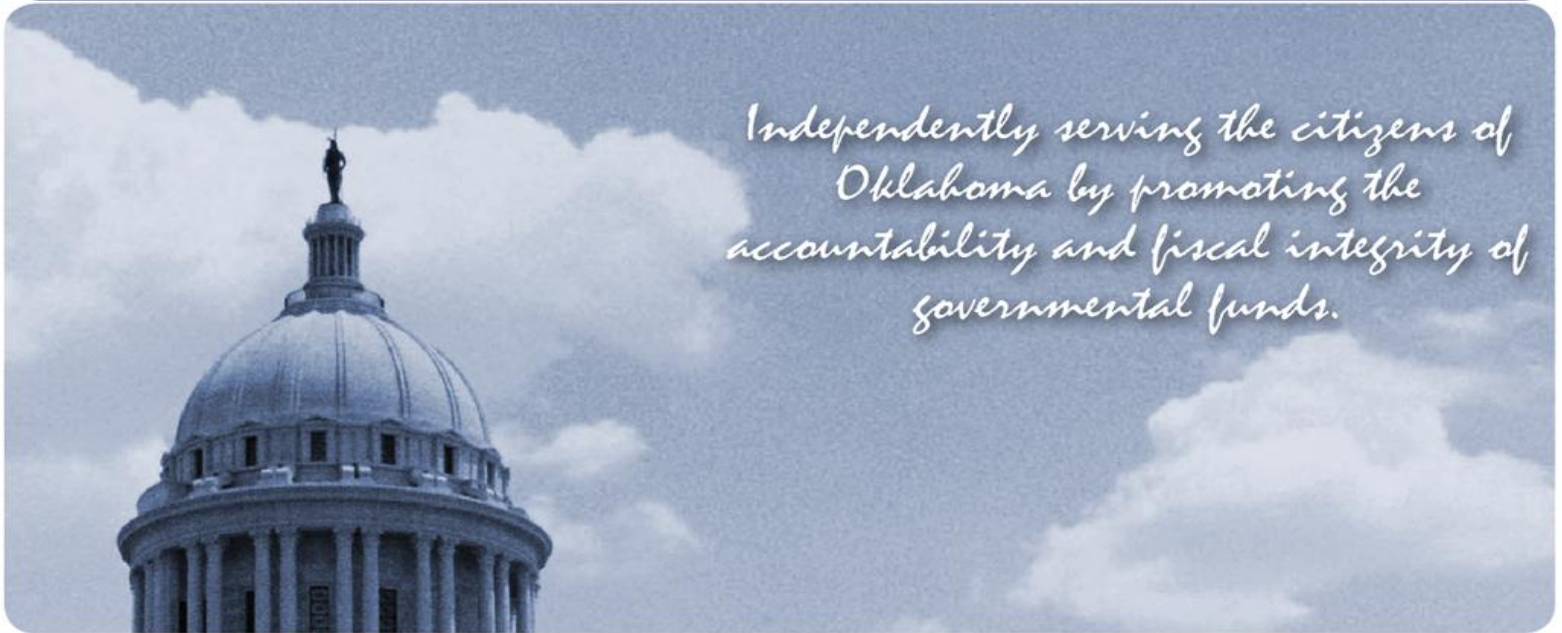


STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 18
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period of July 1, 2014 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

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016

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 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

May 12, 2017

Chuck Sullivan, 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 County, Oklahoma (the District) for the period of July 1, 2014 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 written in a cursive style.

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

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

TABLE OF CONTENTS

Introductory Information	ii
Statutory Report of State Auditor and Inspector	1
Schedule of Findings and Responses	3

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

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.

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

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

Statutory Report

Chuck Sullivan, 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, 991.f-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, 2014 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 Pittsburg or Haskell 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 name "Gary" being the most prominent.

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

March 16, 2017

CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2016-1 – Inadequate Internal Control Environment - Written Policies and Procedures for Bogus Check Restitution and Supervision Fee Programs

Condition: As part of our review of District Attorney’s accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has not established 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 Program

Pittsburg County

- Deposits were not performed daily. We noted several instances where three (3) to nine (9) days had lapsed before Bogus Check Restitution payments were deposited. **(Repeat Finding)**

Haskell County

- Deposits were not performed daily. We noted several instances where four (4) to seven (7) days had lapsed before Bogus Check Restitution payments were deposited. **(Repeat Finding)**

Supervision Fee Program

Pittsburg County

- Deposits were not performed daily. We noted several instances where four (4) to seven (7) days had lapsed before Supervision Fee payments were deposited. **(Repeat Finding)**

Haskell County

- One (1) of the ten (10) Supervision Fee payments tested was not deposited in a timely manner. We noted eleven (11) days had lapsed before the payment was deposited. **(Repeat Finding)**

Cause of Condition: The District Attorney’s office does not have formal policies established and/or implemented to ensure that all payments received by the District are processed, documented, and deposited in a timely manner.

Effect of Condition: These conditions could result in employee error for the financial reporting and documentation of the collection of payments, unrecorded transactions, and misappropriation of funds for the Bogus Check Restitution and Supervision Fee Programs.

Recommendation: The Oklahoma State Auditor and Inspector’s Office (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

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

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 the oversight of the daily collection process and the depositing of funds with the County Treasurer.

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: The District Attorney's Office has implemented a new policy of daily deposits of all monies received that day.

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 and to safeguard data.

Finding 2016-2 – Inadequate Internal Control Environment and Noncompliance Over Forfeited Inventories and Competitive Bidding Procedures for the District Attorney Drug Fund (Property Forfeiture) Program (Repeat Finding)

Condition: As part of our review of District Attorney's accounts and records, we tested receipts, disbursements, and the status of forfeiture case activity and forfeited assets. Deficiencies were noted in certain areas, which include the following:

Pittsburg County

- Inventory of seized assets was not maintained by the District.
- One (1) case had been dismissed and property ordered returned to the defendant. However, we were unable to verify the return of property to the defendant, due to being unable to locate signed documentation for the release and return of the property.
- One (1) instance was noted where guns forfeited to the State by court order were sold in a public auction by the seizing agency without the District's knowledge.
- A vehicle forfeited to the State by court order was released and returned to the defendant in error.

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

Haskell County

- Inventory of seized assets was not maintained by the District.
- One (1) case had been dismissed and property ordered returned to the defendant. However, we were unable to verify the return of property to the defendant, due to being unable to locate signed documentation for the release and return of the property.
- We were unable to locate a Candle Power Spotlight while performing a verification of forfeiture case inventory.
- A review of a pending forfeiture case reflected a seized vehicle was returned to the defendant by the seizing agency prior to an order of forfeiture or dismissal by the court.
- The District Attorney's Office did not follow proper purchasing procedures regarding the bidding of a vehicle purchased for the Drug Task Force. The District Attorney's Office could not provide documentation reflecting the procedures required to obtain the bid documentation of the awarded bid on the OMES state contract and proof of the comparison to the quote from a local vendor. Upon reviewing the documentation available, it was determined the specifications of the vehicle purchased from the local vendor were not the same as the specifications of the vehicle awarded on the State Contract. These specifications must match exactly according to state statutes in order to purchase from the local vendor without soliciting bids.

Cause of Condition: The District Attorney's office does not have policies procedures designed and implemented to safeguard the District's forfeiture assets and seized property and to ensure compliance with proper competitive bidding procedures. Furthermore, the District is not tracking civil forfeiture cases and the disposition of property inventory to ensure compliance with state law.

Effect of Condition: These conditions resulted in noncompliance with state statutes, noncompliance with court order, and inadequate safeguarding of District forfeiture assets held in trust.

Recommendation: OSAI recommends that management adopt and implement written policies and procedures for the accounting of program funds and the maintenance of asset inventory. 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 forfeiture case file maintenance and status of forfeited and pending forfeiture inventory.
- Guidelines for the oversight of the release and return of seized property.
- Guidelines for the process, documentation, and approval of purchases through state and county competitive bidding laws.

Furthermore, we recommend 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.

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

Management Response: We have implemented a ledger in Pittsburg County and Haskell County for the tracking of forfeiture case activity and forfeiture property inventory.

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.

Title 63 O.S. § 2-506 K states in part, “Property taken or detained under this section shall not be replevable, 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...”

Title 19 O.S. § 215.37G states, “Purchases made from district attorney appropriations shall be made in accordance with the procedures prescribed by statute for county officers, departments and agencies except that neither the purchases nor the expenditures for such purchases shall be subjected to the approval of the board of county commissioners. It shall be the mandatory duty for the designated county officials to issue, sign, attest, register and pay the warrants required to pay such obligations.

In addition, 19 O.S. § 1501 (A)(3)(l) states in part,

A. The county purchasing agent:

3. Shall make purchases and rental or lease purchase agreements only after following the bidding procedures as provided for by law, except:

l. when considering the purchase of an item or items from the state bid list as provided by the Office of Management and Enterprise Services or the General Services Administration, *if the same exact item* is available from a local vendor at or below the price listed on the state bid list or the General Services Administration, the item may be obtained by the vendor.

Further, 19 O.S. § 1505 (B)(l) states in part,

B. The bid procedure for selecting a vendor for the purchase, lease-purchase, or rental of supplies, materials, equipment and information technology and telecommunication goods and services used by a county shall be as follows:

1. The county purchasing agent shall request written recommendations from all county officers pertaining to needed or commonly used supplies, materials, equipment and information technology and telecommunication goods and services. From such

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

recommendations and available requisition, purchase, or inventory records, the county purchasing agent shall prepare a list of items needed or commonly used by county officers. The county purchasing agent shall request from the Purchasing Division or from the Information Services Division in the case of information technology and telecommunication goods and services of the Office of Management and Enterprise Services all contracts quoting the price the state is paying for the items. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, to make the purchase for the county or the county purchasing agent shall solicit bids for unit prices on the items for periods of not to exceed twelve (12) months in the manner described in paragraph 2 of this subsection. If the county purchasing agent receives a requisition for an item for which the county purchasing agent does not have a current bid, the county purchasing agent shall request from the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, all contracts quoting the price the state is paying for the item. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable; to make the purchase for the county or the county purchasing agent shall solicit bids in the manner described in paragraph 2 of this subsection. Nothing in this paragraph shall prohibit bids from being taken on an item currently on a twelve-month bid list, at any time deemed necessary by the county purchasing agent. Whenever the county purchasing agent deems it necessary to take a bid on an item currently on a twelve-month bid list, the reason for the bid shall be entered into the minutes of the board of county commissioners;

Finding 2016- 3 – Inadequate Internal Controls Over the Preparation and Review of Annual Reports

Condition: As part of our review of District Attorney Programs, we ensure that amounts on Annual Reports reconcile with the County Treasurer’s balances and are accurately reflected in the amounts submitted to the District Attorneys Council (DAC). From our review, the following discrepancies were noted:

- At June 30, 2016, the beginning balance, total collections, and ending balance for the Restitution and Diversion Annual Report did not reconcile with the County Treasurer or District ledgers in the amounts of \$6,929.85, \$101.46 and \$7,031.31, respectively.

Cause of Condition: Annual Reports were not reviewed by someone other than the preparer to ensure accuracy of the amounts reported.

Effect of Condition: This condition resulted in inaccurate annual reporting of collections and account balances submitted to the DAC for program fund activity.

**CHUCK SULLIVAN, DISTRICT ATTORNEY
DISTRICT 18
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting and reporting of program funds. 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 of monthly reconciliations to the County Treasurer’s account balances.
- Guidelines for accurate reporting of annual reports and the review process.

Management Response: The District Attorney’s Office will more carefully review reports, including internal peer review among the Finance Director and Grant Director prior to submission of District program activity to the District Attorney Council.

Criteria: Basic components of effective internal controls include an independent review of financial reports to ensure accuracy of the information. Written policies and procedures for performing essential duties should be adequately documented to ensure employees understand their responsibilities and to ensure reliability of financial reporting of the District.



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

WWW.SAI.OK.GOV