

STATUTORY REPORT

DISTRICT ATTORNEY

DISTRICT 19

BOGUS CHECK RESTITUTION PROGRAM

SUPERVISION PROGRAM

RESTITUTION AND DIVERSION PROGRAM

PROPERTY FORFEITURE PROGRAM

For the period of July 1, 2009 through June 30, 2013



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19**

**STATUTORY REPORT
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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) 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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December 26, 2014

Emily Redman, District Attorney
District 19
Bryan County Courthouse
Durant, Oklahoma 74701

Transmitted herewith is the statutory report for the District Attorney of District 19, Bryan, Atoka, and Coal County, Oklahoma (the District) for the period of July 1, 2009 through June 30, 2013.

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,

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

**EMILY REDMAN, 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

Emily Redman, District Attorney
District 19
Bryan County Courthouse
Durant, Oklahoma 74701

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 period of July 1, 2009 through June 30, 2013.

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 Bryan, Atoka, or Coal 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

October 21, 2014

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 1 – Segregation of Duties – Bogus Check Restitution, Supervision, and DA Property Forfeiture Accounts

Condition: The following are instances of the lack of segregation of duties in personnel within District Attorney accounts:

Bryan County

A lack of segregation of duties exists in the procedural process of the Property Forfeiture Program (DA Seized and Controlled Substance Forfeiture accounts). One employee prepares expenditures, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution (DA Bogus Check and DA Fee accounts) Program. One employee prepares expenditures, issues vouchers, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

A lack of segregation of duties exists in the procedural process of the Supervision Fee Program. One employee prepares expenditures, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual report. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

Atoka County

A lack of segregation of duties exists in the procedural process of the Property Forfeiture Program (DA Forfeiture Fund and Drug Task Force Account). One employee prepares and delivers deposits, prepares expenditures, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

A lack of segregation of duties exists in the procedural process of the Supervision Fee Program. One employee prepares and delivers deposits, prepares expenditures, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

Coal County

A lack of segregation of duties exists in the procedural process of the Supervision Fee Program. An employee receives payments and prepares the deposits. No one other than the preparer reviews the

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deposits for accuracy. In addition, one employee prepares expenditures, maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual report. No one other than the preparer reviews the monthly reconciliations and annual report for accuracy.

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: 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.

Management Response: The Office of the District Attorney recognizes the importance of the segregation of duties in order to promote integrity in accounting procedures. Policies and procedures are in place to promote as much segregation of duties as is possible in our small offices. It should be noted, that while one person is sometimes charged with maintaining ledgers, reconciling with the treasurer and preparing vouchers associated with expenditures, the District Attorney reviews each and every purchase order and expenditure and signs each voucher prepared by staff. In addition, it should be noted that this office does not accept cash, but rather requires payments by money orders or cashier's checks only, thus reducing the risk of misappropriation.

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

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has written policies and procedures and has

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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:

Information Technology

- Employees are not required to log-out of the system when leaving their workstation.
- Override or write-off reports are not reviewed periodically for unusual activity (Atoka and Coal Counties).
- A time-out security measure has not been assigned in the system.
- IT software audit reports are not reviewed for voided, altered or deleted receipts (Atoka and Coal Counties).
- Employees receiving payments are able to delete/void payments (Atoka and Coal Counties).

Supervision Fee Program

Atoka County

- 3 of the 4 expenditures tested did not have any indication that goods and/or services had been received. (i.e., receiving reports, etc.)
-

Coal County

- 2 of the 20 Supervision fee payments tested was not deposited in a timely manner.

Restitution and Diversion

Bryan County

- Of the 4 cases tested, Restitution and Diversion fees were not properly assessed by the following amounts:
 - RAD-07-09 was over assessed fees in the amount of \$327.00.
 - RAD-07-10 was over assessed fees in the amount of \$133.00.
 - RAD-09-09 was over assessed fees in the amount of \$28.40.
 - RAD-11-05 was over assessed fees in the amount of \$33.40.

Cause of Condition: The District Attorney's office is not monitoring policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Bogus Check Restitution, Restitution and Diversion, and Supervision Fee accounts to ensure that internal controls are being implemented.

Effect of Condition: These conditions 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, these conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends that management adhere to 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

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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. (i.e., 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.
- 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.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting processes.
- Guidelines for the administrative approval and review of IT software deletions, voids and write-off activity.

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.

Management Response:

Information Technology findings: The District Attorney will amend current policies and procedures to address the issues raised in the report of the Auditor and Inspector and appreciates this insight and recommendation. It is also the understanding of the District Attorney that some of these issues have been addressed to the Information Technology Division of the District Attorneys Council in hopes of developing increased security in this regard.

Supervision Fee Program findings: The District Attorney and Finance Coordinator will review policy and procedure with staff to ensure that each member understands the importance of those policies, especially concerning timely deposits. This office has a firm policy that deposits should be made daily and failure to abide by that policy will be addressed immediately.

Restitution and Diversion findings: When the District Attorney established our Restitution and Diversion Program, she contacted the Office of the Bryan County Court Clerk to determine the amount of court costs assessed for individual offenses and set RAD fees accordingly. Apparently, the Office of the Auditor and Inspector has a different interpretation of the way those fees are to be calculated. This office will work with the Office of the Auditor and Inspector to set appropriate fees in future cases referred to the RAD Program. It should be noted that very few cases in District 19 are referred to the RAD program.

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.

Finding 3 – Internal Control Environment - Written Policies and Procedures for District Attorney Drug Fund (Property Forfeiture)

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has written policies and procedures and 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:

Atoka County

- The physical count on hand of seized property did not agree to amounts filed in 1 of 13 cases tested.
 - CJ-12-3 – Physical count was \$57.07 less than filed with the court.

Coal County

- Property Forfeiture inventory is not maintained.

Cause of Condition: The District Attorney’s office is not monitoring policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Drug Fund (Property Forfeiture) account to ensure that internal controls are being implemented.

Effect of Condition: These conditions 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, these conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends that management adhere to 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 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.

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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.

Management Response: The District Attorney will review this finding with relevant staff to ensure that these issues do not reoccur and that policies and procedures are followed at all times.

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 4 – Supervision Records

Condition: Additional testwork was performed for the Coal County Supervision Program for fiscal year 2010 and fiscal year 2011. As a result, the following discrepancies were noted:

- Generic receipts issued for Supervision payments have the potential to be altered or duplicated when sequentially numbered receipts are not utilized as an internal control to promote accountability and assist in review and reconciliation.
- Accounting records were not maintained in a responsible manner. For example, records were not clearly maintained to reflect amounts due of Supervision fees and receipts were not recorded.
- Deposits were not made daily.
- Money orders received were not timely deposited.
 - For the period of September 2009 through May 2011, some money orders were held 3 weeks to 15 months before being deposited.

In addition, six defendant files were tested with the following exceptions noted:

- Defendant 1, 3, and 6 files reflected a balance due on accounts; these defendants were not entered into the new computerized account system implemented in June 2011.
- Defendant 4 files reflected seven receipts issued totaling \$280.00 but only six receipts totaling \$240.00 were able to be traced to an actual deposit. One receipt issued for \$40.00 was unable to be traced to an actual deposit.
- Defendant 6 file reflected a receipt in the amount of \$40.00; however a \$65.00 money order was traced to an actual deposit. There was no explanation or documentation for the \$25.00 variance between the receipt and money order deposited.

Cause of Condition: The District Attorney's office is not monitoring policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Supervision Fee account to ensure that internal controls are being implemented.

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Effect of Condition: These conditions 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, these conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends that management adhere to 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 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 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:

Coal County Supervision findings: The information which led to the findings regarding Coal County Supervision were discovered by the District Attorney in May, 2011. While having been instructed to develop a receipting system with sequential numbering, the employee admitted that she had chosen not to do so. While the employee had been advised repeatedly that our policy required daily depositing of payments, she failed to do so. The Finance Coordinator at the time repeatedly reminded the Coal County employee that daily deposits were required, but for quite some time did not inform the District Attorney of the continued failure to comply. When the Finance Coordinator finally expressed concern to the District Attorney, the District Attorney investigated, learned that the policy violations were troubling, especially the failure to deposit moneys in a timely fashion, and the employee was immediately terminated. The current Finance Coordinator works closely with staff throughout the District to make sure that each employee dealing with monies comply with policies and procedures.

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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