

STATUTORY REPORT

DISTRICT ATTORNEY

DISTRICT 22

BOGUS CHECK RESTITUTION PROGRAM, SUPERVISION PROGRAM, RESTITUTION AND DIVERSION PROGRAM

For the period July 1, 2008 through June 30, 2010



*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

**CHRIS L. ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
DISTRICT ATTORNEY SUPERVISION FEE PROGRAM
FOR THE PERIOD OF JULY 1, 2008 THROUGH JUNE 30, 2010**

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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March 5, 2012

Chris L. Ross, District Attorney
District 22
Pontotoc County Courthouse
Ada, Oklahoma 74821

Transmitted herewith is the statutory report for the District Attorney of District 22, Pontotoc, Seminole, and Hughes Counties, Oklahoma (the District) for the period of July 1, 2008 through June 30, 2010.

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

**CHRIS L. ROSS, DISTRICT ATTORNEY
DISTRICT 22
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FOR THE PERIOD OF JULY 1, 2008 THROUGH JUNE 30, 2010**

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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

Chris L. Ross, District Attorney
District 22
Pontotoc County Courthouse
Ada, Oklahoma 74821

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 Program, Restitution and Diversion Program, and the District Attorney Supervision Fee Program for the period of July 1, 2008 through June 30, 2010.

- Examine fees to determine that the correct fees are assessed, received, 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 general-purpose financial statements of the 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

March 24, 2011

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SCHEDULE OF FINDINGS AND RESPONSES

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

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.

Condition: The District Attorney's office has a collections department for Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Programs located in the counties of Pontotoc, Seminole, and Hughes Counties. Based on inquiries, we noted instances in which a single employee could be responsible for the recording, authorization, custody, and execution of revenue transactions. The following are concerns that were noted:

Collections

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

- All employees receive collections, write receipts, and work from the same collection drawer.

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

- The Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Coordinator balances the collection drawer to daily receipts, prepares official depository tickets, takes deposits to the Treasurer, posts daily receipts to the collections book or computer files, reconciles account balances to the Treasurer, and approves write-offs or adjustments.
- All employees receive collections and write receipts.

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

- The Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Coordinator balances collections drawer to daily receipts, prepares official depository tickets, reconciles receipts to official depository tickets, takes deposits to the Treasurer, posts daily receipts to the collections book or computer files, reconciles account balances to the Treasurer, and posts payments and/or credits to accounts.
- All employees receive collections, write receipts, and work from the same collection drawer.

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Disbursements

We also noted instances in which a single employee could be responsible for recording, authorization, custody, and execution of expenditure transactions. The following are concerns that were noted:

Pontotoc County:

- The Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Finance officer performs the duties of authorizing purchases, preparing claims with supporting documentation, certifying receipt of goods and services, approving claims for payment, preparing vouchers, distributing vouchers, and maintaining account ledgers.

Seminole County:

- The Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Coordinator prepares vouchers to merchant/victim, signs vouchers, mails or distributes vouchers, authorizes purchases, prepares claims with supporting documentation, certifies receipt of goods and services, approves claims for payment, prepares vouchers, distributes vouchers, and maintains account ledgers.

Hughes County:

- The Bogus Check Restitution, Restitution and Diversion, and Supervision Fee Coordinator prepares vouchers to the merchant/victim, signs vouchers, prepares claims with supporting documentation, certifies receipts of goods or services, and maintains account ledgers.

Effect: 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: The District Attorney does not receive sufficient funding to segregate the duties. For over 25 years, one county had only one staff position. Therefore, policy is implemented to establish a paper trail on all documents. For this reason, cash is not accepted for any payments. Payments must be

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made in money orders or cashier's checks. The existence of a paper trail is designed to deter theft from within. Further, the paper trail would allow identification of the person involved if theft was discovered.

Auditor Response: Because key accounting functions are not adequately separated there is an increased risk for inaccurate accounting records.

Finding 2 – Internal Control Environment Regarding Collections, Expenditures, Account Balances, and Reporting

Criteria: Effective internal controls are essential to provide reasonable assurance about the achievement of the entity's objectives with regard to reliability of financial reporting, and compliance with applicable laws and regulations. An effective internal control system has in place policies and procedures that reduce the risk of errors and fraud within an organization. To help ensure proper accounting of funds, the office should maintain records that accurately reflect financial transactions.

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, defendant files, and fund balances. The District Attorney has written policies for the collection and deposit of program funds. However, we did not note any policies pertaining to the oversight and monitoring of the disbursement process and the maintenance of account balances, with the exception of the Bogus Check program. As a result, deficiencies were noted in several areas which include the following:

BOGUS CHECK RESTITUTION PROGRAM

Pontotoc County:

- 2 of the 5 expenditure claims tested did not have an invoice attached.
- 2 of the 5 expenditure claims tested did not have documentation verifying that goods and/or services had been received.
- An amount totaling \$23,002.96 in merchant restitution is being held in the District Attorney's Bogus Restitution fund. The District Attorney's office could not identify the restitution cases related to this amount.
- Collections are not deposited daily.

Seminole County:

- Collections are not deposited daily.

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Hughes County:

- All 5 expenditure claims tested did not have proper approval for purchase or payment.
- 3 of the 5 expenditure claims tested did not have documentation verifying that goods and/or services had been received.
- Collections are not deposited daily.

RESTITUTION AND DIVERSION PROGRAM

Pontotoc County:

- The beginning District Attorney Fee balance on the Restitution and Diversion Annual Report for FY10 did not include Hughes County's balance of \$2,570.50.

Seminole County:

- Receipts are not pre-numbered or issued in sequential order.
- Collections are not deposited daily.

Hughes County:

- Receipts are not pre-numbered or issued in sequential order.
- 1 receipt could not be located.
- Collections are not deposited daily.

SUPERVISION FEE PROGRAM

Seminole County:

- Collections are not deposited daily.

Hughes County:

- Collections are not deposited daily.

Effect: This condition could result in inaccurate and incomplete files, unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds. In addition, collections are not safeguarded and could result in misappropriation of funds.

Recommendation: We recommend management identify, analyze and manage risks. The District Attorney should implement policies and procedures to help ensure necessary actions are taken to address the

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potential risks involved in accomplishing the department's objectives. 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: Policy previously developed and implemented in writing states that daily deposits shall be made. A copy of this policy has been delivered to the State Auditor. The staff has been reminded of this policy and the District Attorney has made it clear that daily deposits are to be made. A previous criticism by the previous state auditor resulted in an additional policy being written stating that all deposits must be made within ten days. This new policy appears to have caused some confusion as to whether daily deposits were still required. This matter has been made clear by the District Attorney.

The issue of sequential numbers is a software problem. While the program makes sequential receipt numbers, it will not make them sequential as to each category, such as bogus check, supervision, or restitution. Additionally, all three counties are on the same system. The software will not segregate receipt numbers by county. Therefore, one receipt may come out of one county, and the next sequentially numbered receipt may come out of another county. Further, one receipt may be for a bogus check payment, and the next sequentially numbered receipt for a supervision payment.

The District Attorney is aware that some districts have one office for their entire district. Thus, their receipts are sequential. However, the District Attorney believes this arrangement is highly inconvenient for the citizens in that they have to travel from the other counties to address their issues. Additionally, District 22 was not organized in that manner by the previous administration and although it was considered, this District Attorney found it would be too cumbersome.

This issue has been addressed repeatedly with the software company. The company advised that they had received numerous complaints about this issue from other District Attorneys but had not resolved it. The company advised this week that the "new" version will be put into use next year; however, this issue has not been addressed at this time and may not be addressed.

The office of the District Attorney has a new Finance Officer. Therefore, the District Attorney cannot ascertain what conversations were had between this office and the auditor as to the issue of the \$23,002.96 during the audit. In talking with current staff, it is believed that this may have been money in which the victims were not capable of being located, i.e., establishments that had gone out of business. The District Attorney is informed by staff that currently the amount being carried in the account has been reduced to \$1,553.18.

The District Attorney has spoken with a representative of the State Auditor's office for suggestions on writing policy regarding expenditures and documenting the same. The State Auditor's office has been provided with the District Attorney's policy requiring that all purchases be approved prior to purchase.

The District Attorney will develop policy regarding expenditures. This policy will mandate that expenditures be documented by receipts.

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Regarding the beginning balance on Restitution and Diversion Annual Report FY10, not including Hughes County, the District Attorney cannot state the reason for this as the Finance Officer from that time period is now retired. The issue has been discussed with the new Finance Officer.

Auditor Response: Controls are not designed to ensure all receipts are properly accounted for and deposited. Further, controls are not designed to review annual financial reports for accuracy.



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