

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 22
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period of July 1, 2013 through June 30, 2015



*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 ROSS, DISTRICT ATTORNEY
DISTRICT 22**

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

FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015

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

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

September 23, 2016

Chris 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 County, Oklahoma (the District) for the period of July 1, 2013 through June 30, 2015.

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

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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.

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

Chris 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 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, 2015.

Bogus Check and Supervision 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, 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 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 and the Supervision 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 Pontotoc, Seminole, or Hughes 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

August 22, 2016

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2015-1 – Segregation of Duties – Bogus Check Restitution, Supervision Fees, and Property Forfeiture Programs (Repeat Finding)

Condition: Upon inquiry of the District Attorney’s staff and observation of records, the following instances of the lack of separation of duties in personnel within the District Attorney’s programs were noted:

Pontotoc County

A lack of segregation of duties exists in the procedural process of the Property Forfeiture (Drug Fund), Supervision (Bouncer and Supervision accounts), and Bogus Check (Merchant and DA Fees) Programs. The same employee (for each account, respectively) prepared deposits, prepared and issued vouchers, maintained ledgers, reconciled monthly to the County Treasurer and prepared the annual reports. There was no indication that someone other than the preparer reviews the deposits, monthly reconciliations or annual reports for accuracy.

Seminole County

A lack of segregation of duties exists in the procedural process of the Bogus Check (Merchant) and Supervision Fee (CORD 2 account) Programs. One employee received and entered payments and prepared deposits. In addition, the same employee prepared and issued Bogus Check (Merchant) restitution vouchers. There was no indication that someone one other than the preparer reviews the daily deposits for accuracy, nor approves the issuance of monthly merchant restitution.

Hughes County

A lack of segregation of duties exists in the procedural process of the Bogus Check (Merchant) and Supervision Fee (CORD account) Programs. One employee received and entered payments and prepared deposits. In addition, the same employee prepared and issued Bogus Check (Merchant) restitution vouchers. There was no indication that someone other than the preparer reviews the daily deposits for accuracy, nor approves the issuance of monthly merchant restitution.

Cause of Condition: Policies and procedures have not been designed and implemented to properly separate key accounting functions within the District Attorney’s Programs.

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

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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:

Pontotoc County:

The lack of segregation of duties is a result of a lack of funding. The District Attorney does not have enough funds to hire individuals to perform each function. While another employee could be tasked with reviewing the math in a deposit, for example, we do not have the manpower nor the funds to hire the manpower to have individuals perform an in depth review of deposits, reconciliations, or annual reports.

Seminole County:

The lack of segregation of duties is a result of a lack of funding. The District Attorney does not have enough funds to hire individuals to perform each function. While another employee could be tasked with reviewing the math on vouchers, deposits, etc., we do not have the manpower nor the funds to hire the manpower to have individuals perform an in depth review of deposits or to approve the issuance of monthly merchant restitution other than for math errors.

Hughes County:

The lack of segregation of duties is a result of a lack of funding. The District Attorney does not have enough funds to hire individuals to perform each function. While another employee could be tasked with reviewing the math on vouchers, deposits, etc., we do not have the manpower nor the funds to hire the manpower to have individuals perform an in depth review of deposits or to approve the issuance of monthly merchant restitution other than for math errors.

Auditor Response: Although it is difficult to adequately segregate duties with limited employees, mitigating controls should be implemented to adequately safeguard assets. An example of a mitigating control would include having someone other than the preparer review the receipts and deposit ticket for accuracy as evidenced by initials and date of the review.

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.

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

Finding 2015-2 – 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 the District Attorney’s accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has established written policies and procedures and/or has designed and implemented internal controls for the safeguarding and reporting of program funds. However, deficiencies were noted in certain areas, which include the following:

Information Technology-District-Wide

- Employees did not log off of their computers when leaving their workstations for an extended period of time, nor did their computers time-out during inactivity.
- Void/deletion and /or write-off reports were not reviewed for unusual activity.

Bogus Check Restitution Program

Hughes County

- Nine (9) of the ten (10) disbursements tested did not have any indication that goods and/or services had been received by the District (i.e., receiving reports, etc).

Supervision Fee Program

Pontotoc County

- Three (3) instances were noted where 3-4 days had lapsed before payments were deposited.
- Payroll disbursements remitted to the District Attorney Council were not properly approved by someone other than the preparer.

Hughes County

- Payroll disbursements remitted to the District Attorney Council are not properly approved by someone other than the preparer.

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

Effect of Condition: These conditions could result in unauthorized access to financial information and inaccurate or improper expenditures for the District. Further, these conditions could result in employee error for the reporting and documentation of the collection of payments and the accounting of funds. Also, without proper receiving information, invoices 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 adopt written policies and procedures for the accounting and documentation of program funds. Implementing this recommendation would ensure that

CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015

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.
- All disbursements of the District should be properly supported with indication that the goods/services were received by the District and the invoice is ready to be paid. Further, all disbursements should be properly authorized by management.
- Guidelines for the process of approval by management and documentation of account disbursements.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting processes.
- A time-out security measure should be implemented for computers to safeguard against unauthorized access when an employee is away from their station.
- 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 program's daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department's assets.

Management Response:

In response to the finding that computers were being left without being logged off, the District Attorney advised the employees of the District by email that it was now policy to set a 15 minute time at which all computers would automatically lock if idle. The District Attorney also provided the steps to go through to accomplish setting this automatic locking.

Office policy exists that any purchases received must be documented by a second employee. This policy was made August 5, 2014. This policy was reinforced via email to all employees.

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.

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

Finding 2015-3 – Inadequate Internal Control Environment - Written Policies and Procedures for District Attorney Drug Fund (Property Forfeiture) Program and Noncompliance Over Forfeited Inventories (Repeat Finding)

Condition: As part of our review of the District Attorney’s 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:

Pontotoc County

- Inventory of seized property was not maintained.
- One (1) instance was noted where 11 days had lapsed before seized money was deposited.
- One (1) of the ten (10) disbursements tested did not have an invoice attached to validate the expense.
- One (1) of the ten (10) disbursements tested did not have any indication that goods and/or services had been received by the District (i.e., receiving reports, etc.).

Seminole County

- Inventory of seized property was not maintained.
- Generic receipts that can be altered or duplicated with no sequential receipt number controls were issued for seized money.

Hughes County

- Two (2) instances were noted where receipts were not issued for seized money received by the District.
- Drug Fund disbursements were not properly authorized and approved by someone other than the preparer.
- Disbursements for the return of seized funds back to the defendant did not have supporting documentation to validate the expense.
- Two (2) guns were returned back to the defendant prior to an official order of dismissal by the presiding judge.

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. Also, District policies are not being followed for the tracking of civil forfeiture cases and the disposition of property inventory.

Effect of Condition: These conditions resulted in noncompliance with state statute and could result in inaccurate or improper expenditures and create errors in the accounting and reporting of collections for the District. These conditions could also affect case activity and the location or disposition of seized property. Further, without proper receiving information, invoices could be processed for goods/services that were not received by the District or that were not for District purposes.

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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 ensure 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 and pending forfeiture inventory.
- Guidelines for the oversight of the daily collection process and the deposit of funds.
- Guidelines for the process of approval by management and documentation of account disbursements.

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 has policies regarding the handling of seized property, be it currency or otherwise. An inventory of all property seized is now included in the policy and procedures. As stated previously, the existing policy on the issue of documenting the receipt of purchased items has been re-stressed to employees.

The generic receipt has been addressed. The office provided receipt books to be used for drug monies submitted to the office. The office has now ordered sequentially numbered receipt books.

The existing policies including the inventory policies, have been communicated again to the employees.

Regarding the transfer of funds to DAC, the DA will now initial the document that shows that money was sent to DAC for payroll. These documents are all present, and show that monies were transferred to DAC, and by whom they were transferred. Thus it appears to the DA that a clear paper trail of the money transfers exists. However, if the auditor believes it is necessary for the DA to initial this document, then it will be done.

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 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

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section...”

Finding 2015-4 – Inadequate Internal Controls Over the Accuracy of the Bogus Check Restitution Annual Reports (Repeat Finding)

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:

Bogus Check Restitution Annual Report:

- At June 30, 2014, the amount “collected for victims” and the amount “paid to victims” was overstated by including the District Attorney fees in the amount of \$152,677.49.
- At June 30, 2015, the amount “collected for victims” and the amount “paid to victims” was overstated by including the District Attorney fees in the amount of \$116,915.80.

Cause of Condition: There was no indication that annual reports were reviewed by someone other than the preparer to ensure amounts reported are accurate.

Effect of Condition: These conditions resulted in inaccurate annual reporting of disbursements, collections, and account balances submitted to the District Attorney’s Council for program fund activity.

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 annual report form was misinterpreted. The finance officer has corrected it in this year’s annual report. Regarding the recommendation of an “independent review,” the office does not have the manpower or the funding to have an employee review the work of the finance officer at a depth other than mathematical accuracy.

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.

**CHRIS ROSS, DISTRICT ATTORNEY
DISTRICT 22
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

Finding 2015-5 – Unclaimed Bogus Check Restitution (Repeat Finding)

Condition: Balances for the Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015. This is a cumulative amount as a result of vouchers not cashed by merchants and subsequently cancelled. They are as follows:

Pontotoc County

- Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015 totaling \$801.12 which could not be identified.

Seminole County

- Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015 totaling \$9,680.32 which could not be identified.

Hughes County

- Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015 totaling \$185.25 which could not be identified.

Cause of Condition: The District Attorney's office does not have formal policies establishing procedures to ensure that returned or unpaid vouchers are examined to determine the current status of the merchant for the re-issuance of the restitution.

Effect of Condition: These conditions resulted in the Restitution Fund not being properly cleared and merchants not receiving restitution payments in a timely manner.

Recommendation: OSAI recommends that management research and determine the location of the merchants so that restitution can be properly remitted. Management should then contact the proper agency for further direction to determine the manner in which the remaining unidentified balance should be distributed.

Management Response:

This issue involves monies left in restitution because the victims cannot be located, have gone out of business, etc. The Pontotoc County balance is now zero. Seminole County is now being addressed by employees from both Seminole and Pontotoc Counties. Hughes Counties balance has been reduced significantly over the last two years. This problem did not begin during this administration. The bogus check fund has been in existence for decades.

Criteria: Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented and communicated to employees responsible for the remittance of restitution to victims. A periodic review of the program should be performed to ensure its effectiveness and to ensure compliance with laws and regulations.



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

WWW.SAI.OK.GOV