

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 25
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION 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

**O.R. BARRIS, III, DISTRICT ATTORNEY
DISTRICT 25**

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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

March 20, 2017

O.R. Barris, III, District Attorney
District 25
Okmulgee County Courthouse
Okmulgee, Oklahoma 74447

Transmitted herewith is the statutory report for the District Attorney of District 25, Okmulgee and McIntosh 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".

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

**O.R. BARRIS, III, DISTRICT ATTORNEY
DISTRICT 25
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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.

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

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Statutory Report

O.R. Barris, III, District Attorney
District 25
Okmulgee County Courthouse
Okmulgee, Oklahoma 74447

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, 2014 through June 30, 2016.

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 Okmulgee or McIntosh 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

February 15, 2017

**O.R. BARRIS, III, DISTRICT ATTORNEY
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SCHEDULE OF FINDINGS AND RESPONSES

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

Condition: Upon discussion with District Attorney staff, the following instances of the lack of segregation of duties in personnel were noted within District Attorney’s programs:

Supervision Program

McIntosh County

A lack of segregation of duties exists in the procedural process of the Supervision Program. An employee who receives and enters payments also prepares and delivers deposits to the County Treasurer. No one other than the preparer reviews the deposits for accuracy.

Cause of Condition: Policies and procedures have not been designed and implemented 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 and 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 District Attorney has established a policy which requires a second employee to review the payment of fees and the accounting and depositing of such fees. The forms of the Deposit documents will contain a space for the second employee to sign confirming their independent 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 maintaining

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ledgers, preparing and approving expenditure claims, and reconciling with the County Treasurer should be segregated.

Finding 2 – Inadequate Internal Control Environment - Written Policies and Procedures for Information Technology, Bogus Check Restitution, Supervision Fee, and Property Forfeiture Programs

Condition: As part of our review of District Attorney’s accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney does not have written policies and procedures and/or has not designed internal controls for the safeguarding and reporting of program funds. As a result, we noted deficiencies in certain areas, which include the following:

Information Technology (Repeat Finding)

Okmulgee and McIntosh Counties – Supervision Program Only

- Employees can delete or void payments without any oversight.
- Voided, deletions, and write-off reports are not reviewed periodically for unusual activity.
- Defendant account balances can be adjusted with no independent oversight.
- Employees do not log off of their computers when leaving their station nor does the software/computer time-out during periods of inactivity.

Bogus Check Restitution Program

Okmulgee County

- We noted that three (3) of the ten (10) Bogus Check fee disbursements tested did not have an independent verification that goods and/or services had been received.
- We noted that one (1) of the ten (10) Bogus Check fee disbursements tested did not have an itemized invoice attached to verify the expense.

Supervision Fee Program

Okmulgee County

- District ledgers are not properly maintained for both Supervision accounts (Account #205 – Supervision Fees and Account #580 – DA Supervision Fees). Therefore, monthly reconciliations are not properly performed for both accounts to ensure accuracy of account activity independent of the County Treasurer.
- We noted that two (2) of the ten (10) disbursements tested did not have an itemized invoice attached to verify the expense.
- We noted that three (3) of the ten (10) disbursements tested did not have an independent verification that goods and/or services had been received.

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McIntosh County

- District ledgers are not maintained independently of the County Treasurer. Therefore, monthly reconciliations are not performed to ensure accuracy of account activity.
- Payments are not deposited in a timely manner. During our review of defendant payments, it was noted that 2-5 days had elapsed before payments were deposited.

Property Forfeiture Program

Okmulgee County

- Since the Drug Enforcement District account ledgers could not be located for fiscal year 2015 we were not able to reconcile the District Attorney's account activity with the County Treasurer's account activity. Therefore, our office relied on County Treasurer account balances and activity for annual reporting to DAC and the test of property forfeiture cases.
- Since the Drug Enforcement District account ledgers for fiscal year 2016 were incomplete with the last entry in District ledgers being June 20, 2016, we were not able to reconcile the District Attorney's account activity with the County Treasurer's account activity. Therefore, our office relied on County Treasurer account balances and activity for annual reporting to DAC and the test of property forfeiture cases.
- We noted that two (2) of the ten (10) disbursements tested did not have an invoice attached to validate the expense.
- We noted that one (1) of the ten (10) disbursements tested did not have an *itemized* invoice attached to verify the expense.
- We noted that one (1) of the ten (10) disbursements tested did not have an independent verification that goods and/or services had been received.

Cause of Condition: The District Attorney's office has designed but not fully implemented policies and procedures to ensure that program account activity is properly reconciled independently from the County Treasurer, protection 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, improper disbursements for the District, and inaccurate account balances. In addition, 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 follow the written policies and procedures of the office and implement further internal controls for the safeguarding program funds. 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 process of approval and documentation of account expenditures.

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- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.
- Guidelines for system security and system inactivity management.
- Guidelines for the oversight of District ledgers and monthly reconciliations to the County Treasurer's account balances.

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:

Probation

The District will institute a policy wherein the DA/First ADA will review and approve/disapprove any deletion or voided payment and document that by virtue of signature/initials. In addition, the District will institute a policy which requires daily deposits with the exception of weeks wherein a holiday occurs.

Drug Asset Forfeiture

The 2015 Ledger has been located and the State Auditor has been advised. DA acknowledges that the Auditor has not audited the Ledger as of the date of this Response. The District Attorney will complete the implementation of the policies referenced as being in progress in this Report. The District Attorney will work with the County Treasurer to establish a separate account to record the amounts of assets which are pending forfeiture before final Order of the Court in a Forfeiture proceeding. While the District Attorney asserts that at no time have assets pending forfeiture ever been improperly used, this policy will permit further safeguards for that potential.

Overall

The District Attorney is in the process of obtaining software programming to provide more straightforward reporting of accounts within all areas of the Office.

Furthermore, the District Attorney would note that virtually every transaction in all aspects of the operations of this Office is personally reviewed by the District Attorney. This is done to help ensure proper compliance with all legal requirements and to date the District Attorney is unaware of any improper expenditure or accounting of funds. However, the District Attorney is willing to accept any input and suggestions of the Auditor to make this process more secure.

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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