

**DISTRICT ATTORNEY
DISTRICT 27**

**BOGUS CHECK
RESTITUTION FUND**

**FOR THE YEAR ENDED
JUNE 30, 2005**



**STATUTORY
REPORT**



Oklahoma State Auditor
& Inspector

**JERRY S. MOORE, DISTRICT ATTORNEY
DISTRICT 27
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
FOR THE YEAR ENDED JUNE 30, 2005**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



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November 8, 2010

Jerry S. Moore, District Attorney
District 27
Wagoner County Courthouse
Wagoner, Oklahoma 74467

Transmitted herewith is the statutory report for the District Attorney of District 27, Adair, Cherokee, Sequoyah, and Wagoner Counties, Oklahoma for the fiscal year ended June 30, 2005.

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.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our procedures.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and to issue reports that serve as a management tool to the State to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads 'Steve Burrage'.

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

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INTRODUCTORY INFORMATION

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.

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Statutory Report

Jerry S. Moore, District Attorney
District 27
Wagoner County Courthouse
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For the purpose of complying with 74 O.S. § 212.E and 22 O.S. § 114, we have performed each of the following procedures as it relates to the records of the Bogus Check Restitution Fund for the fiscal year 2005.

- Examine fees to determine that the correct fees were assessed, receipted, and deposited in compliance with 28 O.S. § 153.
- Determine whether expenditures were used to defray lawful expenses of the District Attorney's office and restitution agreements do not exceed two years in accordance with 22 O.S. § 114; whether expenditures were supported by invoices and approved claims; and that goods or services paid for were received.
- Determine whether the fund reconciles to the County Treasurer's records.
- Determine that the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits and total expenditures, and that expenditures were properly classified and presented.

All information included in the financial records of the bogus check restitution program is 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 Adair, Cherokee, Sequoyah, or Wagoner Counties.

Based on our procedures performed, with respect to the items tested, District 27 was properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153; expenditures were used to defray lawful expenses of the District Attorney's office and restitution agreements did not exceed two years in accordance with 22 O.S. § 114; expenditures were supported by invoices and approved claims, goods or services paid for were received; the fund balance reconciled to the County Treasurer's records; and expenditures were properly classified. With respect to the annual report being submitted to the District Attorneys Council showing the total deposits and total expenditures, our finding is presented in the schedule of findings and responses. We also noted a matter of commingling of fees in the Bogus Check Restitution Fund, and our finding is presented in the schedule of findings and responses.

Because of the discrepancies described in the attached finding, information from the Bogus Check Restitution Fund Annual Report prepared by District 27, which was submitted to the District Attorneys Council, is not included in this report.

This report is intended for the information and use of the District Attorney and Adair, Cherokee, Sequoyah, and Wagoner County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

A handwritten signature in blue ink that reads "Steve Burrage". The signature is written in a cursive style with a large initial "S" and "B".

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

June 14, 2010

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2005-1 – Commingling of Fees (Repeat Finding)

Criteria: Title 22 O.S. § 114.B states:

Each restitution agreement shall include a provision requiring the defendant to pay to the victim a Twenty-Five Dollar (\$25.00) fee and to the district attorney a fee equal to the amount which would have been assessed as court costs upon filing of the case in district court plus Twenty-five Dollars (\$25.00) for each check covered by the restitution agreement; provided, every check in an amount of Fifty Dollars (\$50.00) or more shall require a separate fee to be paid to the district attorney in an amount equal to the amount which would be assessed as court costs for the filing of a felony case in district court plus Twenty-five Dollars (\$25.00). This money shall be deposited in a special fund with the county treasurer to be known as the “Bogus Check Restitution Program Fund.” This fund shall be used by the district attorney to defray any lawful expense of the district attorney’s office. The district attorney shall keep records of all monies deposited to and disbursed from this fund. The records of the fund shall be audited at the same time the records of county funds are audited.

Attorney General Opinion 1985 OK AG 100 states:

Title 22 O.S. 114 (1985) creates both a special fund and a depository account with the county treasurer.

Condition: A separate fee fund is not maintained in which district attorney bogus check fees are to be deposited. Fee funds are commingled with the restitution funds for merchants.

Effect: Commingling of fees increases the risk of undetected errors, misappropriation of funds, and misstated financial reports.

Recommendation: OSAI recommends an account known as the “Bogus Check Restitution Fee Account” be set up in a special fund, to separate the bogus check fees from restitution fees.

Views of responsible officials and planned corrective actions: Management did not respond.

Finding 2005-2 – DAC Annual Reports (Repeat Finding)

Criteria: Title 22 O.S. § 116.A states:

District Attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Bogus Check Restitution Program.

Condition: Collections and disbursements per the annual report, which is submitted to the District Attorneys Council, did not agree to receipts and disbursements per the County Treasurer's Official Depository General Ledger.

Effect: Amounts of collections and disbursements being reported to the District Attorneys Council do not reconcile with the County Treasurer's Official Depository Ledger.

Recommendation: OSAI recommends District 27 Bogus Check Division maintain an accurate ledger listing all collections and disbursements as required by the above-mentioned statute within the "Bogus Check Restitution Program Fund," and reconcile the "Bogus Check Restitution Program Fund" with the County Treasurer's office on a monthly basis. OSAI further recommends District 27 Bogus Check Division reconcile the accounts with the Treasurer's office and re-submit an annual report to the District Attorneys Council based upon the reconciled figures.

Views of responsible officials and planned corrective actions: Management did not respond.



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