


STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 2
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period of July 1, 2013 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

**ANGELA MARSEE, DISTRICT ATTORNEY
DISTRICT 2**

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**FOR THE PERIOD OF
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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 Prairie Collection (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to 65 O.S. § 3-114.



Oklahoma State Auditor & Inspector

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June 7, 2017

Angela Marsee, District Attorney
District 2
Custer County Courthouse
Arapaho, Oklahoma 73620

Transmitted herewith is the statutory report for the District Attorney of District 2, Custer County, Beckham County, Ellis County, Roger Mills County, and Washita County, Oklahoma (the District) for the period of July 1, 2013 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,

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

**ANGELA MARSEE, DISTRICT ATTORNEY
DISTRICT 2
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FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016**

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**ANGELA MARSEE, 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.



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Statutory Report

Angela Marsee, District Attorney
District 2
Custer County Courthouse
Arapaho, Oklahoma 73620

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991.f-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 the period of July 1, 2013 through June 30, 2016.

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 Custer, Washita, Beckham, Roger Mills, or Ellis 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 written in a cursive style with a long, sweeping tail on the letter "s".

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

May 18, 2017

ANGELA MARSEE, DISTRICT ATTORNEY
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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2016-1 – Inadequate Internal Controls over the Segregation of Duties over Receipting and Balancing Processes (Repeat Finding)

Condition: Upon inquiry of the District Attorney’s employees and observation of records, it was noted in Roger Mills County and Ellis County, the duties of issuing receipts, balancing the cash drawer, preparing and delivering deposits to the County Treasurer, posting payments to accounts, and reconciling account balances to the County Treasurer are not adequately segregated for the Restitution and Diversion Program. Both Roger Mills County and Ellis County have one employee that performs all of these duties.

Cause of Condition: Policies and procedures to develop written job descriptions have not been designed and implemented to separate the key accounting functions of each office.

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: In order to mitigate the risks associated with having one employee having the duties in Roger Mills County and Ellis County, the Oklahoma State Auditor and Inspector (OSAI) recommends management transfer the collection and disbursement responsibilities of the Restitution and Diversion Program to Custer County where all other accounting functions of the District have been centralized.

Management Response:

District Attorney: Due to budget restraints, we cannot hire another staff member to be utilized for entering and receipting monies we receive. We feel like the staff we have in place adequately separates the duties, as best they can, of posting and depositing the monies received in our District.

We plan to order receipt books for each of the other counties in the District to use when they accept a payment in their office. The receipt books, assigned to these counties, will be individualized and numbered. A receipt will be provided to the payer, and a copy will be retained for our records. This will provide uniformity throughout our District and provide a paper trail for monies received by our other offices. Payments will be sent to Custer County, and an additional receipt will be mailed to the defendant once the payment has been entered into the computer system.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. An important aspect of internal controls is the safeguarding of assets. Internal controls over safeguarding of assets constitute a process, affected by management and other personnel, designed to provide reasonable assurance regarding prevention or timely detection of unauthorized transactions and safeguarding assets from misappropriation.

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Finding 2016-2 – Inadequate Internal Controls Over the Preparation and Review of 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 Attorney’s Council (DAC). During our review, we noted the following discrepancies:

- At June 30, 2016, the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$160,318.84.
- At June 30, 2015, the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$178,167.52.
- At June 30, 2014, the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$219,449.83.

Cause of Condition: Annual Reports were not reviewed by someone other than the preparer to ensure amounts reported are accurate.

Effect of Condition: These conditions resulted in inaccurate annual reporting of 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:

District Attorney: The District Attorney will present this finding at the next council meeting at the District Attorney’s Council. The annual reports we are required to submit each year are uniform for all District Attorney Districts and originate from the District Attorney’s Council. Once the District Attorney’s Council reviews the finding, they can update the annual report template to properly distinguish the amount collected for victims and the amount of funds the District Attorney receives as fees.

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.

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Finding 2016-3 – Inadequate Internal Controls Over Case Balances for the Bogus Check, and Restitution and Diversion Programs (Repeat Finding)

Condition: Upon observation and inquiry of staff, we noted the following weakness in accounting for the case balances for Bogus Check, Restitution and Diversion, and Supervision Programs.

The District has balances in the Bogus Check Restitution Program that have not been identified to a specific defendant's case for reimbursement to the victim.

We noted the District's Bogus Check Restitution Program was centralized in Custer County in 2005. Balances for all counties in the District were not reconciled to case file balances at that time. The beginning balance July 1, 2013 was \$13,750.28 and the ending balance June 30, 2016 has increased to \$14,332.50. The balance as reported has not been reconciled to the case file balances in the accounting software system.

Furthermore, we found the District has balances in the Restitution and Diversion Program that have not been identified to a specific defendant for the reimbursement to the victim. The beginning balance at July 1, 2013 was \$1,358.58 and the ending balance at June 30, 2016 has remained at \$1,358.58.

Cause of Condition: Written policies and procedures have not been designed and implemented with regard to determining each defendant's case balance. Additionally, we noted the case balances that were not reconciled to a specific defendant's case were included in outstanding balances prior to implementing the use of the District's software system, as well as cancelled vouchers that were not properly credited to the defendant's case.

Effect of Condition: These conditions could result in inaccurate accounting of amounts owed to victims and amounts collected from the defendants for distribution.

Recommendation: OSAI recommends the District design and implement policies and procedures to ensure the defendant's case balances are properly identified and an effort be made to contact the defendant for payment.

Management Response:

District Attorney: Our top priority, in the immediate future, is to address the balances in the Bogus Check, Restitution and Diversion and Supervision programs. We will assign an employee within our District to spend part of their time locating victims and disbursing funds that have accumulated in those accounts. We are setting a long-term goal to have these carryover balances eliminated in the next three years.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. An important aspect of internal controls is the safeguarding of assets. Internal controls over safeguarding of assets constitute a process, affected by management and other personnel, designed to provide reasonable assurance regarding prevention or timely detection of unauthorized transactions and safeguarding assets from misappropriation.



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