

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 3

**BOGUS CHECK RESTITUTION PROGRAM, SUPERVISION
PROGRAM, RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period July 1, 2009 through June 30, 2012



*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

**JOHN WAMPLER, DISTRICT ATTORNEY
DISTRICT 3**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
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RESTITUTION AND DIVERSION PROGRAM
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**FOR THE PERIOD
JULY 1, 2009 THROUGH JUNE 30, 2012**

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

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January 22, 2013

John Wampler, District Attorney
District 3
Jackson County Courthouse
Altus, Oklahoma 73521

Transmitted herewith is the statutory report for the District Attorney of District 3, Greer, Harmon, Jackson, Kiowa and Tillman Counties, Oklahoma (the District) for the fiscal period July 1, 2009 through June 30, 2012.

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

**JOHN WAMPLER, 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

John Wampler, District Attorney
District 3
Jackson County Courthouse
Altus, Oklahoma 73521

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991f-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 July 1, 2009 through June 30, 2012.

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 are 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 Greer, Harmon, Jackson, Kiowa or Tillman 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, appearing to read "Gary A. Jones".

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

November 9, 2012

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2012-1—Inadequate Control Procedures Over Bogus Check, Restitution and Diversion and Supervision Program Computer System

Condition: Upon discussion with the District Attorney’s staff and observation of the internal controls over the District’s computer system, we noted the following weaknesses in the security of the system:

- Employees are not required to periodically change their IT system passwords.
- A time out security measure has not been assigned in the system to users.
- Employees are not required to log out of the system when leaving their workstation.
- One employee makes corrections to the IT entries and overrides the system to make changes without documented approval and adequate supervision.
- Deleted and voided logs are not reviewed by the staff to determine propriety.
- An override report and write-off report are not being printed and reviewed by someone other than the preparers on a regular basis.
- One staff person has not been designated as the primary contact person to restrict the access levels within the system for staff members.

Cause of Condition: Log-on controls are initiated for new employees at the office level for all computer start up; however, the IT system does not incorporate controls to log-on to the system. Other security features have not been implemented by the staff.

Effect of Condition: Because other employees can access the computers without proper log-on passwords, an opportunity for errors and misappropriation of assets exists. When only one employee is designated to make corrections, the corrections may not be made timely, or misappropriation of funds could occur. Override of the system by one employee, without proper approval, could also lead to misappropriation of funds.

Recommendation: OSAI recommends management be aware of these conditions and realize that additional controls are needed to engage the IT software to ensure the credibility of accounting functions. Additionally, the District should train another employee to make corrections to the IT system and adequate, documented approval of these corrections should be maintained.

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Management Response: Prior to receiving this report, we implemented a policy requiring that employees change their IT system passwords. We are currently reviewing the other weaknesses noted and implementing policies and procedures to correct the deficiencies. We have contacted the IT vendor for and requested updates to the software to permit implementation of the recommended safeguards.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, transactions should be identifiable by employee and corrections should be adequately approved and documented.

Finding 2012-2—Inadequate Controls Over Staff Training with Regard to the Computer Software for the Bogus Check, Restitution and Diversion, and Supervision Programs

Condition: Upon observation and inquiry of staff, we noted the following weaknesses in the training of the District Attorney staff:

- The Correction/Error report is not printed and reviewed to ensure all corrections are justified.
- Reports are not being printed and utilized to reconcile outstanding cases at the end of the year to the total dollar balance reported by the County Treasurer.
- A procedure manual has not been developed for training of employees with respect to effective use of the computer programs.

Cause of Condition: Written procedures have not been designed and implemented with regard to data or the reporting processes available for staff in the IT system.

Effect of Condition: These conditions could result in inaccurate records and reports not being utilized for effective monitoring of accounting activities.

Recommendation: OSAI recommends the District implement policies and procedures to ensure all employees receive proper training with regard to computer software.

Management Response: Employees currently receive training with regard to software from either DAC or the IT vendor. We will attempt to improve the training to make sure the reports generated by the system are being fully utilized, as recommended.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. An important aspect of internal controls is the documentation of procedures for employees.

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Finding 2012-3—Inadequate Control Procedures Over Supervision Fee and Bogus Check Restitution Fund

Condition: Upon inquiry of District staff members and observation of documents, we noted the following weaknesses in the processing of information for expenditures of the Supervision Fee Account:

- Claims and receiving reports are not being completed.

Upon inquiry of District staff members and a test of 50 expenditures from the Bogus Check Restitution Fund, we noted the following weaknesses in the expenditure process:

- Claims and receiving reports are not being completed.
- Nine expenditures were for reimbursements to employees.
- Two expenditures to the local car wash for a total of \$120.00 did not have an original invoice attached to the payments.
- One check was issued to a vendor for tolls in the amount of \$100.00; however, the amount on the invoice was \$90.77.

Cause of Condition: Procedures have not been developed to initiate the proper filing of claims for payment with regard to invoices and evidence of receiving goods and/or services.

Effect of Condition: This condition could result in inaccurate financial records and incorrect payments to vendors.

Recommendation: OSAI recommends all claims have original invoices attached to a claim with proper approvals and authorized signatures verifying that goods and/or services were received. Additionally, reimbursements should be avoided with exception of travel expense.

Management Response: It should be noted that the current practice for processing claims and paying invoices has been in use for over ten years and has not been questioned in prior audits. Nevertheless, we are modifying our procedures to begin using claims and receiving reports as recommended. While reimbursements to employees have always been discouraged, there are a limited number of circumstances where it cannot be avoided and, in those instances, we will document the expenditure as recommended.

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 2012-4—Inadequate Controls Over Bogus Check Restitution, Supervision, and Restitution and Diversion Program

Condition: Upon inquiry of District staff members and observation of the Bogus Check Restitution Program, Supervision, and Restitution and Diversion programs, we noted the following weakness in the controls procedures:

- Each program has accounts with outstanding balances that should have been transferred to the individual or appropriate agency.

Cause of Condition: Procedures have not been developed to ensure balances are confirmed before converting the accounts into a centralized location and to continually track those case balances.

Effect of Condition: The balances have not been identified to cases and have not been disbursed to authorized agencies or individuals.

Recommendation: OSAI recommends the District Attorney research and determine the identity of the victims so restitution can be made. The District Attorney's staff should then determine the manner in which the remaining unidentified balance should be distributed.

Management Response: We will begin to review the outstanding balances as time allows and attempt to make proper disbursements to the individuals, or make payment to the unclaimed property division where that is appropriate.

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.

Finding 2012-5—Inadequate Control Procedures Over Program Collections and Disbursements

Condition: The District Attorney's office does not have formal policies in place, establishing procedures for collections and disbursements of the Bogus Check Restitution Fund, Supervision Fee, Restitution and Diversion, and Drug Fund (Property Forfeiture) Program accounts.

Cause of Condition: A written policy and procedure addressing the receipt of cash, input of information and payout for restitution, supervision and fees has not been developed and approved for Bogus Check Restitution Fund, Supervision Fee, Restitution and Diversion, and Property Forfeiture Funds.

Effect of Condition: Without written policies and procedures a misappropriation of assets could occur.

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Recommendation: OSAI recommends a written policy be established for each of the programs. Internal controls should be established to safeguard assets from misappropriation, such as counting cash in the presence of another employee and separation of key functions such as receipting, recording, and depositing 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:

- Approval of voiding and deleting receipts.
- Applying restitution payments to District Attorney Fees and remitting restitution payments to merchants/victims.
- Disposition of monies in an account when a merchant cannot be located.
- Oversight of the daily collection process and the deposit of funds.
- Process of approval, receipt, and documentation of account expenditures.
- Accepting cash payments.
- Payments to vendors.
- Uncollectable amounts to vendors and District Attorney Fees.

Management Response: Written policies and procedures to comply with your recommendations will be implemented and employees briefed as to their responsibilities.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. 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.

Finding 2012-6—Lack of Segregation of Duties Over Collections and Disbursements

Condition: Upon inquiry of the District Attorney's employees, it was noted in Greer, Harmon, Kiowa and Tillman Counties, the duties of collecting funds, issuing receipts (a copy of the money received), and insuring delivery deposits to the Jackson County District Attorney's office through either the mail or delivery by employees on a weekly basis, are not adequately segregated for the Bogus Check Restitution Fund, Supervision Fee, and Restitution and Diversion Program. One employee in each of the counties performs all of these duties.

In Jackson County, it was noted only one person receives, receipts, posts, deposits, writes checks and mails checks in the Supervision program. In addition, the Restitution and Diversion program in Jackson County also had one employee receive, post, prepare the deposit, deposit monies with the County Treasurer, and write checks.

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Additionally, upon inquiry of the District Attorney's employees, it was noted in Greer, Harmon, Kiowa and Tillman Counties, the duties of request and receipt of supplies are not adequately segregated for the District Attorney Expense Account.

Cause of Condition: Written job descriptions and policies and procedures have not been developed to separate the key accounting functions of the offices.

Effect of Condition: A single person having responsibility for more than one area of receiving, receipting, and weekly disbursement of monies, 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 provide an adequate segregation of duties, OSAI recommends management transfer the collection and disbursement responsibilities of the Bogus Check, Restitution Fund, and Restitution and Diversion Program to Jackson County, where all other accounting functions of the District have been centralized. With regard to the District Attorney Expense Account, we recommend that at least one other staff member be utilized in the payment of expenses, such as preparing the claims, so as to provide some mitigating controls in the disbursement process.

Additionally, we recommend that 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.

Further, OSAI recommends management provide segregation of duties, so that no single employee is responsible for performing 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 approve accounting functions.

Management Response: It is not possible in four of the five counties in District 3 to segregate duties as there is usually only one support staff employee in those offices. It is even difficult in Jackson County to do so because of the limited number of employees and other duties that consume their time. Nevertheless, to the extent possible, we will implement your recommendations whenever possible.

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 2012-7–Inadequate Controls - Written Policies and Procedures for District Attorney Drug Fund (Property Forfeiture)

Condition: Upon inquiry of staff and observation of records, we noted that the District Attorney does not have written policies and procedures and/or has not designed and implemented internal controls for the safeguarding and reporting of program funds.

As a result, deficiencies were noted in certain areas of the District Attorney Drug Fund, which include the following:

- There are no formal policies for the process of seizure and forfeiture within the District Attorney’s office.
- While reviewing forfeiture cases, it was noted a voucher to the Drug Enforcement Fund stated \$1,160.00, although the actual amount forfeited was \$1,163.00.
- The expenditures were not supported by a proper claim approval for payment or receiving report.
- Invoices were missing on four of the expenditures tested.
- Voucher # 738, was for donuts for a “spring round-up”.

Additionally, a test of 20 court ordered dispositions for drug forfeitures monies to be deposited into the Drug Enforcement Fund was performed. We noted the following exceptions:

- Six court ordered dispositions were deposited between 10 and 30 days after the order.
- Three court ordered dispositions were deposited over 30 days after the order.

Cause of Condition: The District Attorney’s office does not have formal policies in place establishing procedures for collections and disbursements of the Drug Fund (Property Forfeiture) Program accounts.

Effect of Condition: This could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, expenditure transactions, and the accounting of funds. In addition, this condition could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting 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 the receipting process and the deposit of funds.
- Guidelines for the process of approval and documentation of account expenditures.

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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 the programs daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department's assets.

Management Response: A formal policy for the process of seizures and forfeitures does not exist because the procedure is detailed in the statutes and we follow and comply with those procedures. As for the recommendations on collection and disbursement of forfeited funds, policies will be adopted to address your concerns.

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 occurs, and to obtain supporting documentation for transactions and items affecting management decisions.



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