

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 3**

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

For the year ended June 30, 2013



*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
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

**FOR THE YEAR ENDED
JUNE 30, 2013**

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

August 15, 2014

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 year ended June 30, 2013.

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

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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.

**JOHN WAMPLER, DISTRICT ATTORNEY
DISTRICT 3
STATUTORY REPORT
JUNE 30, 2013**

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 fiscal year June 30, 2013.

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 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

February 24, 2014

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2013-1 – Inadequate Internal Controls Over Computer Systems of Bogus Check, Restitution and Diversion, and Supervision Programs (Repeat Finding)

Condition: Based upon inquiry and the observation of internal controls over the District’s computer systems, we noted the following weaknesses in the security of the systems:

- A time-out security measure has not been assigned in the systems.
- Employees can make alterations, including deleting and voiding entries, without approval.
- Deleted and voided logs are not printed or reviewed.
- One employee has not been designated as the primary contact person to restrict the access levels within the systems for all employees.

Cause of Condition: Procedures have not been designed to strengthen the security of the computer systems used by the District.

Effect of Condition: These weaknesses could result in unauthorized use, undetected errors, and a misappropriation of funds.

Recommendation: The Oklahoma State Auditor & Inspector’s Office (OSAI) recommends management be aware of these conditions and realize that additional internal controls are needed to engage both of the software programs to ensure the credibility of accounting functions.

Management Response:

District Attorney: I have requested the IT Division of the District Attorneys Council which manages our computer system, to institute a time-out measure for all computers utilized in District Attorney 3. We are also in the process of implementing a policy and procedure manual to address the other two concerns in this finding.

As to the segregation of duties, we recognize the importance of doing this; however, implementation of such controls is difficult due to inadequate staffing, but we will continue to make all reasonable efforts to comply with your recommendations.

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 identified by employee and corrections should be adequately approved and documented.

Finding 2013-2 – Lack of Policy and Procedure Manual (Repeat Finding)

Condition: Based upon inquiry, the District does not have a policy and procedure manual for all programs operated by the District Attorney.

Cause of Condition: The District has not designed a policy and procedure manual.

Effect of Condition: Without written policies and procedures, there exists an opportunity for errors and misappropriations of assets.

Recommendation: OSAI recommends the District develop a written policy and procedure manual to establish the safeguard of assets from misappropriation.

Management Response:

District Attorney: A policy and procedure manual is being prepared and should be adopted and in place prior to your next audit of this office.

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

Finding 2013-3 – Inadequate Segregation of Duties and Inadequate Internal Controls Over the Collections (Repeat Finding)

Condition: Regarding the collection of funds within the office of the District Attorney in Jackson County, the duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions are not adequately segregated.

It was also noted during the audit, that employees were unable to perform the duties during the absence of the key employee that is responsible for performing the majority of these tasks.

Additionally, the following weaknesses were noted during the test of Property Forfeiture seized funds:

- Receipts were not written for sixty-one of seventy-two amounts deposited with the Treasurer.
- There were two instances in which funds receipted were deposited with the Treasurer three weeks after they were collected.
- There was one instance in which the amount receipted was \$800; however, the amount deposited was \$700, and could not be reconciled with the Treasurer.

Cause of Condition: Policies and procedures have not been designed to adequately segregate the duties over the accounting functions of the office and provide assurance that receipts are issued intact for funds deposited in a timely manner.

Effect of Condition: A single person having responsibility for more than one area of accounting functions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner.

Recommendation: OSAI recommends that management be aware of these conditions. A 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. In the event that a 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. OSAI also recommends that employees are trained in several aspects of the job duties to ensure that, in the absence of key personnel, daily operations of the office continue without hindrance. Further, receipts should be issued for all funds collected and deposited daily.

Management Response:

District Attorney: The sixty-one instances of deposits being made to the Property Forfeiture Fund without receipts being issued, involved Title 63 assessments that defendants are ordered to pay and are eventually deposited to the same fund as forfeited assets. Receipts were issued to the defendants when they came in to pay these sums and the funds were initially deposited to the Restitution Fund. However, receipts were not issued when those funds were transferred within our office from the Restitution Fund to the Property Forfeiture Fund. That procedure has not been corrected.

Criteria: Fundability and stewardship are overall goals of management in the accounting and accountability. 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 2013-4 – Inadequate Internal Controls Over Disbursements of the Property Forfeiture and Bogus Check Funds (Repeat Finding)

Condition: Based upon inquiry and observation, we noted the following weaknesses:

Property Forfeiture Program:

- Claims were not prepared or approved by the District.

- Independent verification that goods or services were received was not indicated on seven of twelve expenditures tested.

Bogus Check Program:

- Claims were not prepared or approved by the District.
- Documentation for three of twelve expenditures tested could not be located for review.

Cause of Condition: Procedures have not been designed to ensure that claims are used to disburse funds to reduce the risk of error or misappropriation of funds.

Effect of Condition: This condition could result in opportunities for misuse or misappropriation of funds.

Recommendation: OSAI recommends the District use claims in the disbursement process of each program to ensure disbursements are properly authorized and made only to defray the cost of the operation of the office in accordance with state statute.

Management Response: The District Attorney did not respond to this finding.

Criteria: Fundability and stewardship are overall goals of management in the accounting and accountability. To help ensure a proper accounting of funds the District should design and implement internal controls to comply with 22 O.S. § 114.



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