

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 4**

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

For the period July 1, 2011 through 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

**MICHAEL FIELDS, DISTRICT ATTORNEY
DISTRICT 4**

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

**FOR THE PERIOD
JULY 1, 2011 THROUGH 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

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November 8, 2013

Michael Fields, District Attorney
District 4
Garfield County Courthouse
Enid, Oklahoma 73701

Transmitted herewith is the statutory report for the District Attorney of District 4, Blaine, Canadian, Garfield, Grant and Kingfisher Counties, Oklahoma (the District) for the period July 1, 2011 through 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

**MICHAEL FIELDS, DISTRICT ATTORNEY
DISTRICT 4
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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.



Oklahoma State Auditor & Inspector

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Statutory Report

Michael Fields, District Attorney
District 4
Garfield County Courthouse
Enid, Oklahoma 73701

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 July 1, 2011 through 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 the District.

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

September 13, 2013

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2013-1 Inadequate Internal Controls over the Computer System for Bogus Check and Supervision Programs (Repeat Finding)

Condition: Upon discussion with 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 were not required to periodically change their IT system passwords.
- A time out security measure has not been assigned in the system.
- Employees were not required to log out of the system when leaving their workstation.

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

Effect of Condition: Since other employees can access the computers without proper log-on passwords, an opportunity for errors and misappropriation of assets exists.

Recommendation: OSAI recommends management be aware of these conditions and realize that additional controls are needed by the IT software to ensure the security of accounting functions.

Management Response: District Attorney, District 4, like District Attorney's offices across the state, use case management software for Bogus Check and Supervision programs. Because the third party software is not under our control the District Attorney, District 4 has no control over its development or with making any changes to it. The District Attorney did establish an additional security policy to be implemented District wide that addresses the above security concerns, including requiring each user to change his/her pass code, utilize the screen saver feature on his/her computer, and manually lock the computer upon leaving his/her workstation. This policy was adopted and put into effect on June 1, 2013.

In addition, District Attorney, District 4 will continue to strive to improve the software by providing feedback to the developer and continue to request that additional software security measures be implemented to address these issues.

Auditor Response: Although the District Attorney cannot control the security of the software, mitigating controls should be implemented to strengthen controls regarding the collections process. This could be accomplished by periodically reviewing the audit log for exceptions and ensure all write-offs and adjustments to accounts are properly authorized.

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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 2013-2 Inadequate Internal Controls Over the Bogus Check Restitution Program Beginning Balance (Repeat Finding)

Condition: The District's Bogus Check Restitution Program was centralized in Canadian County in 2001. Beginning balances totaling \$34,467.53 for all counties in the District were not reconciled prior to that conversion to a centralized accounting system. Therefore, the District has balances that have not been identified to a specific case for reimbursement to the victim.

Cause of Condition: Procedures were not designed to ensure restitution balances were identified by case before converting the accounts into a central location.

Effect of Condition: The District Attorney is holding restitution balances that have not been identified by cases and have not been remitted to the victims.

Recommendation: The Oklahoma State Auditor & Inspector's Office (OSAI) recommends the District Attorney research and determine the identity of the victims so that restitution can be properly remitted.

Management Response: District 4 has adopted a procedure to determine if victims of bogus check crimes might be due restitution from money in the balance of \$34,467.53 and a policy implemented on June 1, 2013, to research and identify the account balances and return the amounts to the victims. A deadline of May 31, 2014, has been set by the District Attorney to identify the owner of the funds or return it to the State of Oklahoma.

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 2013-3 Inadequate Internal Controls Over Bogus Check and Supervision Expenditure Claims

Condition: The test of twenty-five claims from the Bogus Check Account and twelve claims from the Supervision Account noted the following exceptions:

- Expenses for postage do not have invoices attached to claims when filed with the County Clerk for payment.

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- Receiving reports have not been completed to indicate the goods or services were received for fourteen of the twenty-five Bogus Check claims audited.
- Receiving reports have not been completed to indicate the goods or services were received for four of the twelve Supervision claims audited.

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

Effect of Condition: When not properly submitted for payment, this condition could result in improper payments.

Recommendation: OSAI recommends all claims have proper invoices attached and authorized signatures verifying goods and/or services were received.

Management Response: The accounting system implemented by the Canadian County Clerk's office to track purchases required each purchase order to be closed before payment was made. Some vendors required payment before shipping the product, such as the U.S. Post Office. A receiving report could not be issued by the County Clerk's office after the purchase order was closed.

The Canadian County Clerk has authorized an alternative procedure, whereby the purchase order will be left in active status to enable a receiving report to be issued, and then the active purchase order will be closed.

Further, receiving reports were not completed to indicate the goods or services were received for fourteen of twenty five Bogus Check claims and four of twelve Supervision claims due to the above described problem in the County Clerk's purchase order system. The District will follow the new procedure outlined in the County Clerk's letter with all types of purchases to ensure that receiving reports are issued for all purchases.

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.

Finding 2013-4 Inadequate Internal Controls Over Bogus Check Verification of Posting Collections to Client Files

Condition: The District has a centralized process for receipting and posting of collections to the IT System located in Canadian County. The outlying counties of Grant and Kingfisher are required to make copies of money orders received, initial and date the copy, and mail collections to Canadian County to be

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posted. The District Attorney's employee of the outlying county is then responsible to confirm that the funds were correctly posted to the client file in the IT system and write on the copy the employee's initials and dates posted to the IT System. The copy of the money order is then filed in the defendant's client file. Evidence of another employee reviewing this process was not documented in order to provide some monitoring of the receipting and posting of outlying county collections to the IT system.

Cause of Condition: Evidence of a review is not being performed to ensure procedures are being performed correctly in the receiving and verification of funds collected in the outlying counties.

Effect of Condition: When not properly verified for payment, this condition could result in improper payments.

Recommendation: OSAI recommends all payments made in the outlying counties be copied, initialed and dated, verified for correct posting to the IT System, and filed in the client file.

Management Response: Kingfisher County has been stamping all incoming paperwork and verifying that payments are applied since last year's audit was conducted. However, the stamp was placed on the monthly reporting form for Supervision cases and not on the copy of the money order. After speaking with the auditor about this situation, Kingfisher County has changed the process of putting together the verification packets and is now stamping the actual copy of the money order to show that the money order has been properly tracked. This policy will be implemented in the other outlying counties, including Grant County, as well.

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.

Finding 2013-5 Noncompliance Over Property Forfeiture Accounting

Condition: The audit of forfeited seized funds for the District noted the following

- Seized funds that have been ordered forfeited to the District Attorney in Blaine County are paid into the court case in the Court Clerk's office. The Court Clerk deducts the court costs for filing the case and issues a voucher for the remaining amount, to the District Attorney Drug Enforcement cash voucher account. State statute requires that forfeited funds be deposited into a revolving fund. There is no provision for court costs to be deducted from these funds.
- Kingfisher County is utilizing an official depository account, rather than a revolving fund for forfeited seized funds.

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Cause of Condition: Procedures have not been developed to ensure that all seized and forfeited monies are deposited into a District Attorney Drug Asset Forfeiture revolving fund.

Effect of Condition: These conditions resulted in improperly incurred costs based on the court order that violated the state statute.

Recommendation: OSAI recommends the District Attorney develop procedures in Blaine and Kingfisher Counties to deposit court ordered forfeitures into a revolving fund.

Management Response: District 4 will roll over the Kingfisher Controlled Dangerous Substance Revolving Fund into a revolving fund to conform to the recommendation made by the state auditor.

With regard to court costs being deducted by the Court Clerk in Blaine County, there is a court order directing District Attorney, District 4, to do so. District 4 has determined that the procedure for deducting court costs from drug asset forfeiture proceeds started in 2004 and since that time, the Blaine County Court Clerk has deducted a total of \$2,217.86 from drug forfeiture proceeds. The District will work with the Blaine County Court Clerk to refund this money back into the Blaine County Controlled Dangerous Substance Revolving Fund. District 4 has identified steps to ensure that court costs are no longer paid from the proceeds of future drug asset forfeiture actions.

Criteria: Title 63 O.S. § 2-506 (L)(2, 3) states in part, "To the payment of the actual expenses of preserving the property and legitimate costs related to the civil forfeiture proceedings. For purposes of this paragraph, the term "legitimate costs" shall not include court costs associated with any civil forfeiture proceeding; and 3. The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council;



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