

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 5**

**BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

For the period of July 1, 2016 through June 30, 2018



*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

**FRED SMITH, DISTRICT ATTORNEY
DISTRICT 5**

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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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September 11, 2018

Fred Smith, District Attorney
District 5
Comanche County Courthouse
Lawton, Oklahoma 73502

Transmitted herewith is the statutory report for the District Attorney of District 5, Comanche County and Cotton County, Oklahoma (the District) for the period of July 1, 2016 through June 30, 2018.

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". The signature is written in a cursive style with a long, sweeping underline.

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

**FRED SMITH, DISTRICT ATTORNEY
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INTRODUCTORY INFORMATION

BOGUS CHECK RESTITUTION 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 DRUG ASSET FORFEITURE PROGRAM

Most district attorneys in the state have a Drug Asset 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. Any cash, vehicles, real

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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

Fred Smith, District Attorney
District 5
Comanche County Courthouse
Lawton, Oklahoma 73502

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, 2016 through June 30, 2018.

Bogus Check, Supervision, and Restitution and Diversion Programs:

- Determine that internal controls are designed and operating over the collections and disbursement 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 disbursements 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 disbursements 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 disbursements for the Bogus Check Restitution Program, the Supervision Program, and Restitution and Diversion Program.

Drug Asset Forfeiture Program:

- Determine that internal controls are designed and operating over the collections and disbursement 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 disbursements 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 disbursements, 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 drug asset 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 Comanche or Cotton County.

Based on our procedures performed, we have presented our finding 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, flowing style.

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

August 27, 2018

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SCHEDULE OF FINDINGS AND RESPONSES

**Finding 2018-1 – Inadequate Internal Controls Over Collections and Disbursement Processes
(Repeat Finding)**

Condition: Regarding the processes of collections and disbursements within the office of District Attorney, District 5 in Comanche and Cotton Counties, the duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions are not adequately segregated.

Cotton County:

- The office has two employees, one being the Assistant District Attorney; One employee is responsible for collections and disbursements, receipting, depositing, recording, reconciling, and the authorization and execution of transactions. Some mitigating controls have been put into place including tasks that are performed by one employee are reviewed by the other employee, and the District has added review and monitoring from the Lawton office; however, at times, only one employee is responsible for each task.

Comanche County:

- One employee receives seized drug asset forfeiture funds, issues the receipts, makes deposits with the County Treasurer, posts deposits to the ledger, and reconciles the Drug Asset Forfeiture Fund Official Depository account with the County Treasurer. In addition, the same person orders goods and services, prepares each claim with supporting documentation, prepares payments, posts payments, mails or distributes the voucher to the vendor.

Cause of Condition: Policies and procedures have not been designed to adequately segregate the duties over all accounting functions.

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: The Oklahoma State Auditor & Inspector's Office (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 within the office and having management review and approve accounting functions.

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Management Response:

District Attorney: We have implemented the best safeguards possible with limited resources. At least two (2) separate people are involved in all receipting of payments, preparations of deposits, deposits, expenditures, purchases and receipt of materials and we will continue having management review and approve accounting functions.

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 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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