

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 6

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

For the period of July 1, 2008 through June 30, 2011



*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

**JASON HICKS, DISTRICT ATTORNEY
DISTRICT 6**

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

**FOR THE PERIOD
JULY 1, 2008 THROUGH JUNE 30, 2011**

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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April 10, 2012

Jason Hicks, District Attorney
District 6
Stephens County Courthouse
Duncan, Oklahoma 73533

Transmitted herewith is the statutory report for the District Attorney of District 6, Stephens County, Jefferson County, Grady County, and Caddo County, Oklahoma (the District) for the period July 1, 2008 through June 30, 2011.

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 fluid and cursive, with a long horizontal line extending from the end.

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

**JASON HICKS, DISTRICT ATTORNEY
DISTRICT 6
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**JASON HICKS, 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

Jason Hicks, District Attorney
District 6
Stephens County Courthouse
Duncan, Oklahoma 73533

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, 2008 through June 30, 2011.

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 Caddo, Grady, Jefferson, or Stephens 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". The signature is fluid and cursive, with a long horizontal stroke at the end.

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

April 5, 2012

**JASON HICKS, DISTRICT ATTORNEY
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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2011-1— Segregation of Duties

Condition: Upon inquiry of the District Attorney employees, it was noted in Stephens, Jefferson, Grady, and Caddo Counties, 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.

Additionally, upon inquiry of the District Attorney employees, it was noted in Stephens, Jefferson, Grady, and Caddo Counties, the duties of issuing vouchers, signing vouchers, posting transactions to accounts, preparing claims and authorizing purchases, receiving goods and services, and distributing vouchers are not adequately segregated.

Cause of Condition: Written job descriptions and policies and procedures have not been developed to separate the key accounting functions of the 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: OSAI recommends 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 one employee is able to perform 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 approval of accounting functions.

Management Response: No response.

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 2011-2—Annual Reports

Condition: Upon review of annual reports submitted to the District Attorneys Council and recalculation of the accounting information maintained in each county for each fund, we noted the following Annual Reports did not reconcile to accounting information for that account.

Jefferson County

- At June 30, 2009 and June 30, 2010, the Drug Asset Forfeiture Account Report did not reconcile with the County Treasurer in the amount of \$300.

Grady County

- At June 30, 2009, June 30, 2010, and June 30, 2011, the Restitution and Diversion Account Report did not reconcile with the County Treasurer in the amounts of \$5,225.72, \$1,520, and \$716, respectively.
- At June 30, 2011, the Drug Asset Forfeiture Account Report did not reconcile with the County Treasurer in the amount of \$501.

Cause of Condition: Procedures have not been designed to reconcile and review annual report balances to the County Treasurer's ledgers.

Effect of Condition: These conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends the District Attorney implement procedures to accurately reconcile annual reports submitted to the District Attorneys Council with the County Treasurer to provide assurance that accounting information is accurate.

Management Response: The comments contained in your finding were prior to the time I took office in January 2011; however, a review of the annual reports shows that there were notations in the annual report files showing the reasons for not including the balances on the annual reports. In Grady County Restitution and Diversion Account, the amount of \$5,225.72 was forwarded to the Crime Victims Account at District Attorneys Council. The amount of \$1,520.00 was being held pending an order from the judge to pay the heirs of the deceased victim who was owed said funds. My Finance Coordinator was under the impression that the Restitution and Diversion Account should show a "zero" balance and notations were provided in our records showing why these amounts could not be paid prior to the June 30th deadline for the annual reports.

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 2011-3—Bogus Check Restitution Program Expenditures

Condition: On December 30, 2010, the District Attorney purchased two rifle scopes for the Oklahoma Highway Patrol in the amount of \$1,620.25 from the Grady County Bogus Check Operations Account.

In three instances, the District Attorney's office in Caddo County purchased flower arrangements from the Bogus Check Operations Account totaling \$179.63.

Cause of Condition: Procedures have not been designed to ensure employees have a clear understanding of the lawful expenditures that can be made from this fund.

Effect of Condition: The intent of the fees derived from the Bogus Check Restitution Program is that expenses made from the collection of these fees be used to support the collection of bogus check restitution. These four expenditures do not appear to be for that purpose and are in effect, non-allowable expenditures.

Recommendation: We recommend the District Attorney comply with 22 O.S. § 114.B and ensure expenditures made from the Bogus Check Restitution Program Fund only be used to defray lawful expenses of the District Attorney's office.

Management Response: In response to the District Attorney complying with 22 O.S. § 114B to ensure expenditures made from the Bogus Check Restitution Program Fund only be used to defray lawful expenses of the District Attorney's Office. I would reply that it is extremely important for the District Attorney's Office to assist all enforcement agencies in the District. A good working relationship between law enforcement and the District Attorney's Office is very important. The two rifle scopes for the Oklahoma Highway Patrol in the amount of \$1,620.25 were purchased prior to the time I took office in January 2011.

Criteria: Title 22 O.S. § 114.B states in part:

This money shall be deposited in a special fund with the county treasurer to be known as the "Bogus Check Restitution Program Fund." This fund shall be used by the district attorney to defray any lawful expense of the district attorney's office.

Finding 2011-4— Verification of Receiving Goods and/or Services

Condition: An expenditure from the Grady County Property Forfeiture Fund on claim #5638 dated June 14, 2011, for drug test ampoules did not have a signature verifying goods were received.

Cause of Condition: Procedures have not been designed to ensure goods and/or services are properly received in the office and that invoices reflect the independent verification of goods and/or services with initials and dates of the receiving officer.

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Effect of Condition: Without proper authorization of goods and/or services received, this condition could result in unauthorized transactions, misappropriation of assets, or inaccurate payment of invoices.

Recommendation: OSAI recommends that all claims have proper signatures and dates verifying goods and/or services were received.

Management Response: We have implemented a procedure for all claims to have proper signatures, either by the District Attorney or his First Assistant, verifying goods and/or services were received.

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 2011-5— Forfeited Property

Condition: Upon discussion with the District Attorney and a key employee, there was no inventory system in place at June 30, 2011, for Caddo County to track forfeited property. Subsequent to this discussion, the District Attorney employee in Caddo County compiled an inventory listing for forfeited property; however, a 1998 Dodge Pickup documented as “sold at auction” could not be verified as to when it was sold. Also, there was no documentation of money received and/or deposited for the said item.

Cause of Condition: Procedures have not been designed to track and report inventory of seized property in the custody of the District Attorney.

Effect of Condition: This condition could result in inadequate safeguarding of assets held in trust.

Recommendation: OSAI recommends management be aware of this condition 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 and assets.

Further, OSAI recommends management implement an inventory system to adequately track forfeited property to safeguard assets from misappropriation.

Management Response: The vehicle in question, a 1998 Dodge Pickup, which was “sold at auction”, was sold prior to the time I took office in January 2011. I have met with you and a key employee from my Caddo County Office and we have implemented an inventory system to adequately track forfeited property to safeguard assets from misappropriation.

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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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