

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 7

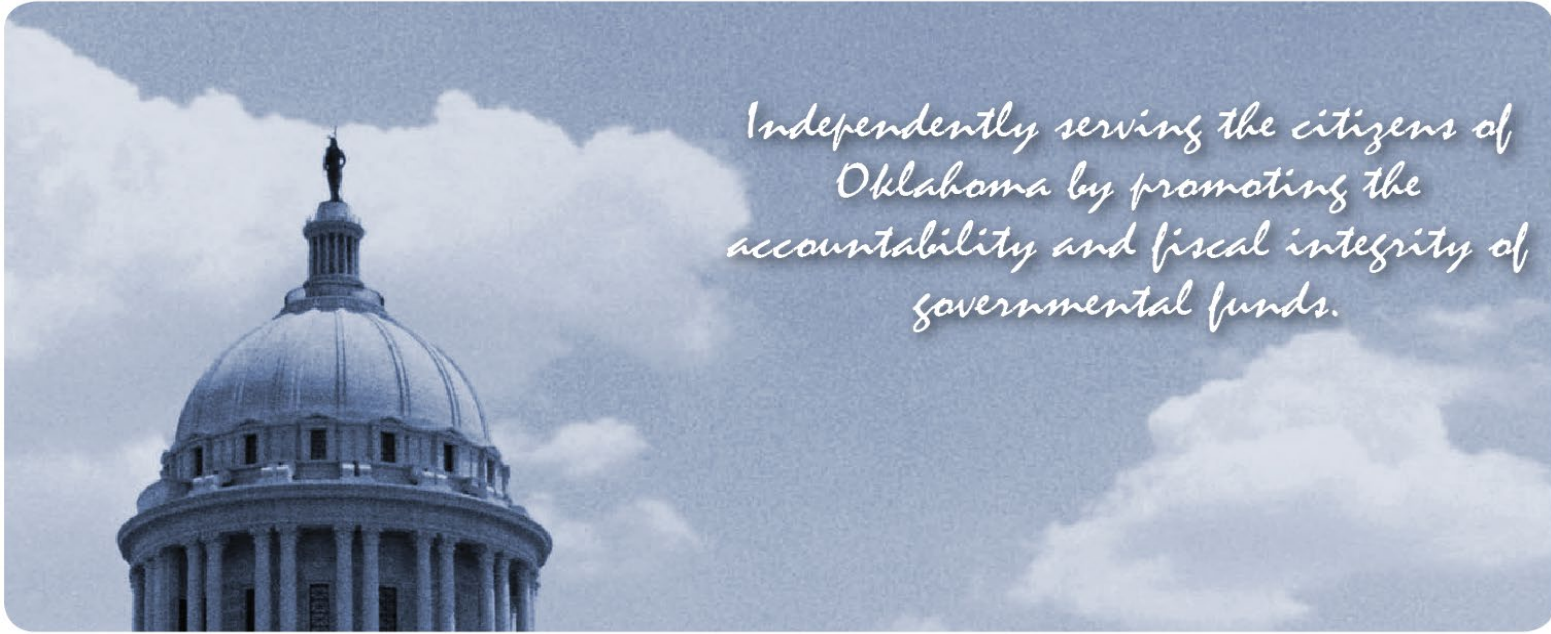
BOGUS CHECK RESTITUTION PROGRAM SUPERVISION PROGRAM

SUPERVISION 991 PROGRAM

RESTITUTION AND DIVERSION PROGRAM

DRUG ASSET FORFEITURE PROGRAM

For the period of July 1, 2014 through June 30, 2016



*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

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
SUPERVISION 991 PROGRAM
RESTITUTION AND DIVERSION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016

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

2300 N. Lincoln Blvd. • State Capitol, Room 123 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

December 31, 2018

David Prater, District Attorney
District 7
Oklahoma County Courthouse
Oklahoma City, Oklahoma 73102

Transmitted herewith is the statutory report for the District Attorney of District 7, Oklahoma County, Oklahoma (the District) for the period of July 1, 2014 through June 30, 2016.

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

**DAVID PRATER, 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 SUPERVISION 991 PROGRAM

The district attorney supervision 991 program was created by the Oklahoma Legislature in 2013. When the offender is *not* ordered supervision by the district attorney (as described above) "the offender shall be required to pay a fee to the district attorney's office during the first two (2) years of probation to compensate the district for the costs incurred during the prosecution of the offender and for the additional work of

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verifying the compliance of the offender with the rules and conditions of his or her probation”. However, the legislation provides the district attorney may waive any part of this requirement in the best interests of justice.

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 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

David Prater, District Attorney
District 7
Oklahoma County Courthouse
Oklahoma City, Oklahoma 73102

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991a (hh), 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, 2014 through June 30, 2016.

Bogus Check, Supervision, Supervision 991, 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, 991a (hh), 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, Supervision 991 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, supervision 991 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 Oklahoma 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 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

September 12, 2018

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2016-001 – Internal Control Environment - Written Policies and Procedures for Information Technology Systems, Bogus Check Restitution, Supervision Fee, and Drug Asset Forfeiture Programs

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, cash balances, and information technology controls. While the District Attorney provided a draft of written policies and procedures, dated March 2018, for the safeguarding and reporting of program funds, we noted several deficiencies in the design and implementation of internal controls in certain areas, which include the following:

Information Technology

- Write-off and deletion software reports were not periodically reviewed for unusual activity within the payment processing division.
- During our review of the District’s software payment reports, it was noted that employees can delete a defendant’s financial obligation, bypassing the software write-off function. Though an explanation detailing the reasons for the deletions are noted within the payment software, this method is undetectable on both the write-off and deletion software reports. In addition, the amounts owed are removed from the defendant’s financial history without any indication of prior obligations to the District.

Disbursements

The test of disbursements for the following programs resulted in the following exceptions:

Drug Asset Forfeiture Program:

Two (2) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District (i.e., receiving reports, etc.).

Bogus Check Restitution Program:

Nine (9) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District (i.e., receiving reports, etc.).

Supervision Fee Program:

Ten (10) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District (i.e., receiving reports, etc.).

Policies and Procedures

- As of March 2018, the District Attorney has drafted policies and procedures for the documenting and depositing of fees from the Supervision Fee Program, Bogus Check Restitution Program, Victims Restitution Program, and 991 Fee Program. The policy and procedure protocol does not address computer controls, including administrative rights and initiating mitigating controls to

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prevent or timely detect errors or unauthorized transactions. Additionally, the disbursement of program funds is not addressed in the draft of the policies and procedures.

Cause of Condition: Although, the District Attorney's office has established some policies dated March 2018, formal policies have not been fully implemented to guard against unauthorized access to computer data, and to ensure disbursements are properly approved and goods/services are properly received by the District.

Effect of Condition: These conditions could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, disbursement transactions, and the accounting of funds. Further, without proper receiving information, invoices could be processed for goods and/or services that were not received by the District or that were not appropriate use of District programs.

Recommendation: The Oklahoma State Auditor and Inspector's Office (OSAI) recommends that management adopt complete written policies and procedures for the accounting of program funds and the maintenance of client files including safeguarding data and disbursement of program 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 for the disbursement of funds of the District are properly supported with indication that the goods and/or services were received by the District and the invoice is approved for payment.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting processes.
- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.

Furthermore, we recommend management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organization's internal control process over time and implement appropriate controls and oversight of each program's daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department's assets.

Management Response:

District Attorney: The Oklahoma County District Attorney's Office appreciates the State Auditor & Inspector's Office and their auditor's thorough examination of our victims' restitution program, bogus check program, DA probation program, 991 fee program, COMIT (Central Oklahoma Metro Interdiction Team) task force operations, maintenance and operations budget, other financial accounts, as well as, our policies and procedures. The District Attorney's Office is pleased with the audit's finding that with an approximately \$11 million annual budget no funds were found to have been improperly allocated.

Regarding specific suggestions for improvement in our policies and procedures we address those as follows:

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“Write-off and deletion software reports were not periodically reviewed for unusual activity within the payment processing division.”

The District Attorney’s Office appreciates the auditor’s suggestion on improving our internal controls, and has implemented a process where the Financial Officer of the District Attorney’s Office regularly reviews all write-off and deletion reports.

“During our review of the District’s software payment reports, it was noted that employees can delete a defendant’s financial obligation, bypassing the software write-off function. Though an explanation detailing the reasons for the deletions are noted within the payment software, this method is undetectable on both the write-off and deletion software reports. In addition, the amounts owed are removed from the defendant’s financial history without any indication of prior obligations to the District.”

District Attorney’s Office employees made the auditor aware of this “feature” of the BounceBack financial tracking software used by our office and several other district attorneys’ offices throughout both Oklahoma and the nation. The State Auditor & Inspector’s Office informed us that they had not discovered this “feature” of the BounceBack software program during their audits of other district attorney’s offices who use the BounceBack software.

The District Attorney’s Office is in the process of acquiring new case management and accounting software which will soon render shortcomings of the software program a non-issue for our office. However, the District Attorney’s Office will inform the vendor of BounceBack of the auditor’s concern and request a programming change in their software for the benefit of other district attorney’s offices. The District Attorney’s Office notes that no evidence exists that a financial obligation has ever been deleted by District Attorney’s Office employees for an improper or fraudulent purpose.

“The test of disbursements for the following programs resulted in the following exceptions:”

It is important to note that this audit covers a period from July 1, 2014 to June 30, 2016. Since that time, and before the current audit was initiated, procedures have been implemented to better document receipt of goods and services. Notably, the First Assistant District Attorney reviews and initials invoices to document the legality and appropriateness of the expenditure before payment is issued to the vendor.

Specific expenditures noted by the auditor will be addressed in order to clarify that no indication exists that District Attorney’s Office funds were spent for any improper purpose. In fact, every indication is that the goods and services paid for were received and used appropriately to promote the purposes and functions of the District Attorney’s Office.

“Drug Asset Forfeiture Program:

Two (2) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District. (i.e., receiving reports, etc.)”

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The two entries the auditor noted without an indication of goods or services received are as follows:

1. February 27, 2015 - \$120.00 payment to Assessment Inc., for a psychological exam of a newly hired investigator. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. It is the practice of the District Attorney's Office to require a psychological examinations prior to employing investigators as they are armed CLEET certified police officers with statewide jurisdiction.
2. February 8, 2016 - \$91.16 payment to the Journal Record newspaper for forfeiture notice by publication. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. Certain public notices must be published in a newspaper of general circulation as a part of forfeiture proceedings. A copy of the advertisement, proof of service by publication, and publisher's affidavit indicating that the date of publication was January 5, 2016, is maintained by the Civil Division of the District Attorney's Office in their forfeiture litigation file. A copy of this documentation is being forwarded to the auditor contemporaneously with this response.

“Bogus Check Restitution Program:

Nine (9) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District. (i.e., receiving reports, etc.)”

The nine entries the auditor noted without an indication of goods or services received are as follows:

1. September 12, 2014 - \$919.00 maintenance fee for BounceBack financial tracking software. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. If this invoice had not been paid, the office would not retain continued support for its financial tracking software. There can be little doubt that the service was received as this is the software the auditor observed District Attorney's Office employees utilizing during this audit.
2. March 2, 2015 - \$150.00 payment to the Oklahoma Board of Bar Examiners for a Temporary License to Practice Law. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. This payment was for a newly hired attorney to receive their temporary license to practice law pending their admission to the Oklahoma Bar Association. As the documentation provided to the Auditor indicates, this check was voided in April 2015 when the applicant failed the Oklahoma Bar Exam. No goods or services were received because no funds were expended.
3. April 14, 2015 - \$400.00 payment for a transcript from a case in the United States District Court for the Western District of Oklahoma. As the auditor's worksheet indicates, an email from the United States District Court Clerk reflected the payment due amount. It is common, in both civil and criminal cases, for the District Attorney's Office to need to purchase transcripts of hearings and trials to adequately represent the interest of the State of Oklahoma and of Oklahoma County.

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4. April 22, 2015 - \$14.25 payment to the District Court Clerk of Sedgwick County, Kansas, for certified copies of court documents. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. It is common for the District Attorney's Office to order certified copies of Judgments & Sentences from both inside and outside the state of Oklahoma to prove the existence of prior convictions to enhance the punishment range for repeat felony offenders. Our office attempts to obtain those certified documents without incurring a fee, but some out-of-state governmental entities insist on charging a fee. It is a necessary expense of representing the interests of the State of Oklahoma.
5. December 18, 2015 - \$20.00 payment to the District Court Clerk of Wayne County, Michigan, for certified copies of court documents. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. It is common for the District Attorney's Office to order certified copies of Judgments & Sentences from both inside and outside the state of Oklahoma to prove the existence of prior convictions to enhance the punishment range for repeat felony offenders. Our office attempts to obtain those certified documents without incurring a fee, but some out-of-state governmental entities insist on charging a fee. It is a necessary expense of representing the interests of the State of Oklahoma.
6. March 8, 2016 - \$919.00 maintenance fee for BounceBack financial tracking software. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. If this was not paid, the office would not retain continued support of our financial tracking software. There can be little doubt that the service was received as this is the software the auditor observed District Attorney's Office employees utilizing during this audit.
7. May 20, 2016 - \$13.75 payment to the District Court Clerk of San Miguel County, Colorado, for certified copies of court documents. As the auditor's worksheet indicates, a facsimile cover sheet from San Miguel County indicating the amount due was attached to the documentation of payment. It is common for the District Attorney's Office to order certified copies of Judgments & Sentences from both inside and outside the state of Oklahoma to prove the existence of prior convictions to enhance the punishment range for repeat felony offenders. Our office attempts to obtain those certified documents without incurring a fee, but some out-of-state governmental entities insist on charging a fee. It is a necessary expense of representing the interests of the State of Oklahoma.
8. May 25, 2016 - \$75.00 payment to the United States Postal Service. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. Payment of postage is a necessary expense of representing the interests of the State of Oklahoma. The Financial Officer of the District Attorney's Office reports that a previous auditor from the State Auditor & Inspector's Office indicated that a photocopy of the check was sufficient to document payment of postage to the USPS. Although this payment was proper, additional internal controls and documentation for receipt of goods and services have been implemented since 2016 as noted above.

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9. June 30, 2016 - \$6.71 payment to the District Court Clerk of Warren County, Kentucky, for certified copies of court documents. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. It is common for the District Attorney's Office to order certified copies of Judgments & Sentences from both inside and outside the state of Oklahoma to prove the existence of prior convictions to enhance the punishment range for repeat felony offenders. Our office attempts to obtain those certified documents without incurring a fee, but some out-of-state governmental entities insist on charging a fee. It is a necessary expense of representing the interests of the State of Oklahoma.

“Supervision Fee Program:

Ten (10) of the twenty (20) disbursements tested did not have any indication that goods and/or services had been received by the District. (i.e., receiving reports, etc.)”

The ten entries the auditor noted without an indication of goods or services received are as follows:

1. February 24, 2015 - \$127.64 payment to the Oklahoma County Sheriff's Office for vehicle maintenance. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. This service was required for vehicle maintenance and repairs on a 2004 Mercury Grand Marquis owned by the District Attorney's Office.
2. April 14, 2015 - \$5,000.00 payment to CMRS-FP in postage costs for the District Attorney's Office postage meter. As the auditor's worksheet indicates, the Financial Officer for the District Attorney's Office reports that the postage meter does not produce receipts. The District Attorney's Office mails a large number of documents each year including tens of thousands of subpoenas for court hearings and trials. It is a necessary expense of representing the interests of the State of Oklahoma.
3. April 22, 2015 - \$3,105.00 payment to Eurosports Motors for vehicle maintenance. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. This service was required to replace the brakes, spark plugs, and multiple gaskets and seals on a 2005 Mercedes-Benz S430 owned by the District Attorney's Office.
4. May 12, 2015 - \$343.39 payment to Bob Moore Cadillac for vehicle maintenance. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. This service was required to replace an ignition switch on a 2008 Chevrolet Trailblazer owned by the District Attorney's Office.
5. June 22, 2015 - \$845.76 payment to Verizon Wireless for cellular phone service for District Attorney Investigators and Victim/Witness Coordinators. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. That invoice indicates that it was for cellular phone services received by the District Attorney's Office from May 5, 2015 to June 4, 2015.

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6. September 4, 2015 - \$35.00 payment to City Glass for windshield repair on a 2008 Chevrolet Trailblazer owned by the District Attorney's Office. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment.
7. November 18, 2015 - \$56.19 payment to the Oklahoma County Sheriff's Office for oil changes on three vehicles owned by the District Attorney's Office. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment.
8. January 5, 2016 - \$1,175.00 payment to R.K. Black Inc., for removal of 10 Konica Minolta copiers from the District Attorney's Office to an Oklahoma County warehouse and removal of the copiers' hard drives. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment.
9. February 8, 2016 - \$88.32 payment to the City of Oklahoma City for water and sewer service for a warehouse facility utilized by the District Attorney's Office. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment.
10. May 20, 2016 - \$845.12 payment to Verizon Wireless for cellular phone service for District Attorney Investigators and Victim/Witness Coordinators. As the auditor's worksheet indicates, an itemized invoice was attached to the documentation of payment. That invoice indicates that it was for cellular phone services received by the District Attorney's Office from April 5, 2016 to May 4, 2016.

Auditor Response: Although documentation of the expense, such as an invoice, was attached to the claim, OSAI recommends indication of receipt of goods and/or services be evidenced by a receiving report or the initials and date of the employee that received the goods and/or services.

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 occur, and to obtain supporting documentation for transactions and items affecting management decisions and, and to safeguard data.



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