

STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 7**

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

For the period July 1, 2010 through June 30, 2012



*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
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

**FOR THE PERIOD
JULY 1, 2010 THROUGH JUNE 30, 2012**

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, 2013

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 July 1, 2010 through June 30, 2012.

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, appearing to read "Gary A. Jones".

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

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD JULY 1, 2010 THROUGH JUNE 30, 2012**

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**DAVID PRATER, 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.

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

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

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, 2010 through June 30, 2012.

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 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, appearing to read "Gary A. Jones".

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

May 22, 2013

**DAVID PRATER, DISTRICT ATTORNEY
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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2012-1— Annual Report Reporting Error (Repeat Finding)

Condition: The ending balance for the Bogus Check Restitution account information reported on the June 30, 2010 Annual Report does not agree with the beginning balance on the June 30, 2011 Annual Report. The beginning balance on July 1, 2010, for the Bogus Check Restitution account was decreased by \$60,104.92.

Cause of Condition: The ending balance on June 30, 2010, consisted of cancelled vouchers and miscellaneous deposits from the previous fiscal year that should not have been depicted in the Annual Report. This caused a discrepancy between the beginning and ending fiscal year reported amounts.

Effect of Condition: Not reporting financial information, cancelled vouchers, and miscellaneous deposits in the year that it occurs, results in the misstatement of the Bogus Check Restitution Fund financial position. In addition, the report submitted to the District Attorney's Council is inaccurate.

Recommendation: The Oklahoma State Auditor & Inspector's Office (OSAI) recommends that all of the District Attorney's Bogus Check Program financial information be reported during the fiscal year in which it occurs to ensure accurate financial position and reporting.

It was noted by the auditor during the course of fieldwork that this annual reporting error appeared to be corrected after fiscal year 2010.

Management Response: Our fiscal officers have been instructed to continue to reconcile all accounts prior to submitting the annual report to the District Attorney's Council, as has been our practice since 2010.

Criteria: Effective internal controls over accounting and record keeping are required to ensure the accurate financial position of the District Attorney's Bogus Check Program.

Finding 2012-2— Policies and Procedures

Condition: Based on inquiry of staff, it was noted there were no current written policies and procedures for the District Attorney's Office. Further, at the beginning of fieldwork a sign at the District Attorney's office depicted a policy where no cash was to be accepted for payment. (Note: At the time of writing this office policy sign is no longer existent). Through inquiry and analysis of data, it was determined this policy was not being implemented, as the following was noted:

- \$220,137.40 of cash was receipted in fiscal year 2011, and
- \$309,536.32 of cash was receipted in fiscal year 2012.

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Cause of Condition: Due to lack of management oversight, written policies and procedures have not been developed to ensure specific office policies are designed and implemented.

Effect of Condition: Without implementing written policies and procedures, instances could arise where employees are making exceptions to policies on a regular and recurring basis.

Recommendation: OSAI recommends management design and implement written policies and procedures for the operations of the District Attorney's Office.

Management Response: The sign indicating to the public that the District Attorney's Office does not accept cash has been removed. Cash payments from defendants who have no other means of payment will continue to be accepted without reference to a policy against accepting cash.

Criteria: Effective internal controls require that management properly design and implement policies and procedures to ensure the office is operating consistently and in compliance with office policies.

Finding 2012-3—Information System Controls

Condition: Based on inquiry of staff, and observation of the District's computer system, we noted instances in which controls were not in place to ensure the integrity of the IT system. The following concerns were noted:

- The IT system had no safeguard in place where passwords were required to be changed after a given time period.
- The IT system had no requirements as to the length or composition of passwords.
- Employees using the IT system have the ability to issue receipts, void receipts, and write-off account balances.

Cause of Condition: Due to lack of management oversight, policies and procedures have not been developed to ensure information system controls are properly designed and implemented.

Effect of Condition: Without implementing safeguards and information system controls, instances could arise where employees are altering or deleting transactions that could lead to misappropriation of funds.

Recommendation: OSAI recommends management request the IT system provide the ability to periodically change user passwords, and to assign requirements as to the composition of user passwords.

Management Response: The office will stress to the IT vendor, the need for password protection of certain system features and functions so that this office may compartmentalize access by employees.

Criteria: The AICPA has recognized ISACA as a source for guidance related to information system auditing and information system control standards. CobiT is ISACA's framework for IT controls.

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According to *CobiT Deliver and Support 5.4 User Account Management*, management should address requesting, establishing, issuing, suspending, modifying, and closing user accounts and related user privileges with a set of user account management procedures. This includes an approval procedure outlining the data or system owner granting the access privileges. These procedures should apply for all users, including administrators (privileged users) and internal and external users, for normal and emergency cases.

Finding 2012-4— Procedures for Cancelled Vouchers

Condition: Based on inquiry of staff, it was noted there was no procedure in place to ensure any restitution related to cancelled vouchers is either returned to the merchant/victim or remitted to Oklahoma Tax Commission (OTC) Unclaimed Property.

Cause of Condition: Due to lack of management oversight, procedures have not been developed to ensure specific monies related to cancelled vouchers are returned to the proper individual if at all possible.

Effect of Condition: Without ensuring monies related to cancelled vouchers are returned to the merchant/victim or remitted to OTC Unclaimed Property, the victim/merchant may never receive the proper restitution they are due.

Recommendation: OSAI recommends management design and implement procedures to ensure efforts are made to contact the merchant/victim of any cancelled vouchers. If this effort is unsuccessful, a procedure should exist to remit funds to OTC Unclaimed Property.

Management Response: Current accounts will be examined to determine if any funds need to be remitted to the Unclaimed Property Fund.

Criteria: Effective internal controls require that management properly design and implement policies and procedures to ensure the office is operated consistently and in the best interests of the merchants/victims they serve.



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