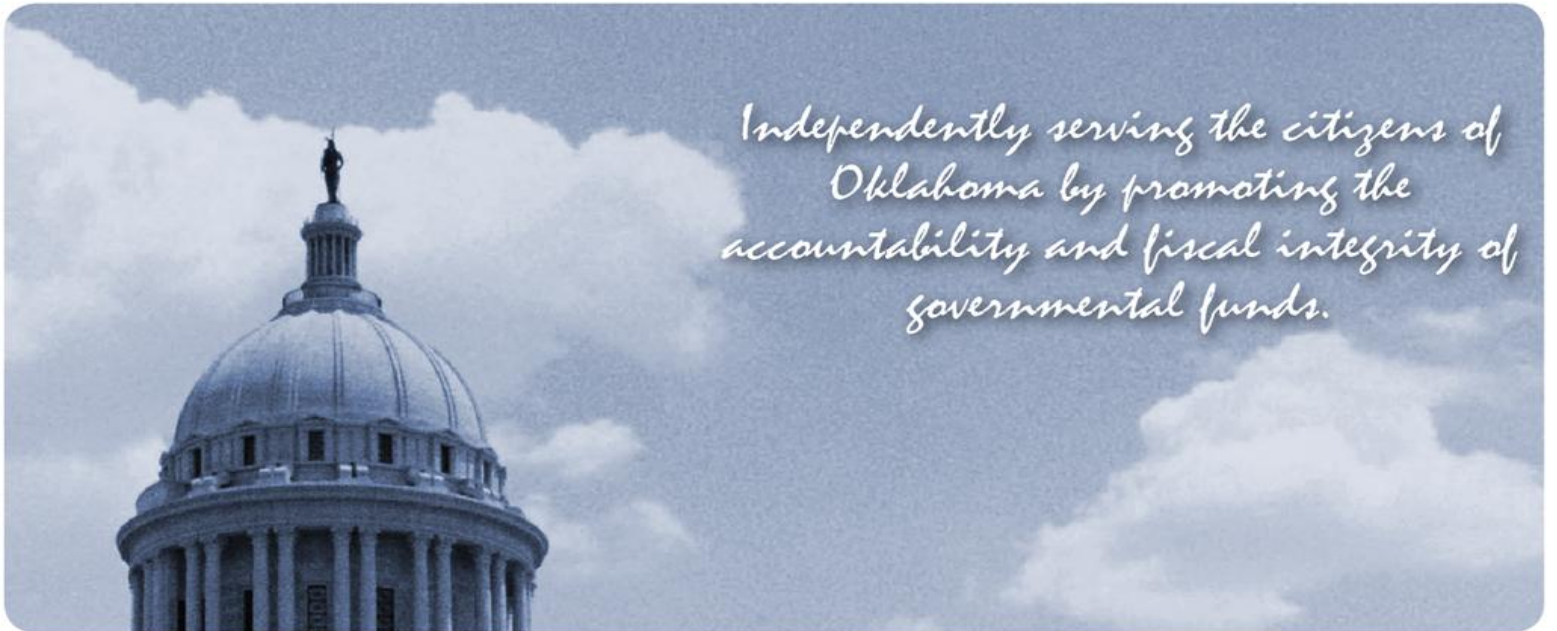


STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 8**

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

For the period of July 1, 2013 through June 30, 2015



*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

**BRIAN HERMANSON, DISTRICT ATTORNEY  
DISTRICT 8**

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

**FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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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](http://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

March 2, 2016

Brian Hermanson, District Attorney  
District 8  
Kay County Courthouse  
Newkirk, Oklahoma 74647

Transmitted herewith is the statutory report for the District Attorney of District 8, Kay and Noble County, Oklahoma (the District) for the period of July 1, 2013 through June 30, 2015.

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

**BRIAN HERMANSON, DISTRICT ATTORNEY  
DISTRICT 8  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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**BRIAN HERMANSON, DISTRICT ATTORNEY  
DISTRICT 8  
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FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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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.

**BRIAN HERMANSON, DISTRICT ATTORNEY  
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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

Brian Hermanson, District Attorney  
District 8  
Kay County Courthouse  
Newkirk, Oklahoma 74647

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, 2013 through June 30, 2015.

### 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 Kay or Noble 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

December 21, 2015



**BRIAN HERMANSON, DISTRICT ATTORNEY  
DISTRICT 8  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2015-1 – Internal Control Environment - Written Policies and Procedures for Information Technology**

**Condition:** Based on inquiry and observation of the District Attorney’s office, we noted instances in which Information Technology (IT) controls were not properly in place to ensure the integrity of the computer software systems used. As a result, deficiencies were noted in certain areas, which include the following:

***Information Technology***

- Employees can void payments without any oversight.
- IT software adjustments (write-offs) deletions and/or voids report are not reviewed periodically for unusual activity.
- Bogus Check software allows deletions of payments.
- Bogus Check software does not have a payment (receipts) report to ensure that receipts are issued in sequential order and total collections can be compared to a deposit.
- Employees do not log out of their computers when away from their workstations, nor do their computers time-out during periods of inactivity.

**Cause of Condition:** The District Attorney’s office has not developed policies and procedures to ensure IT controls are properly designed and implemented to safeguard assets received by the District.

**Effect of Condition:** These conditions could result in employee error for the reporting and documentation of the collection of payments, and the accounting of funds. In addition, these conditions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

**Recommendation:** The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends management assign administrative rights to the software systems used in such a manner that they are segregated between the various users depending upon their job duties and responsibilities. Also, OSAI recommends policies and procedures are designed and implemented to limit the ability for employees to alter or void transactions. 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 oversight of the daily collection process and the depositing of funds.
- Guidelines for the oversight of monthly reconciliations to the County Treasurer’s account balances.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting process.

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- 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 organizations internal control process over time and implement appropriate controls and oversight of each programs daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department's assets.

**Management Response:** The 8<sup>th</sup> District Attorney's Office was only recently upgraded to the newest version of our State-wide criminal tracking system (Justware). It was necessary for this office to delay the upgrade until necessary changes to the program could be accomplished. The improved Justware system contains the necessary financial module, reports and internal controls required to assure proper handling of funds and reporting for the Bogus Check program. We are in the process of transferring data from the current system into the new, and the current software will be phased out during the first quarter of the upcoming year. Policy and Procedures have been established and have been added to the District's Policy and Procedure Manual.

**Criteria:** The AICPA has recognized ISACA as a source for guidance related to information system auditing and information control standards. CobiT is ISACA's framework for IT controls. 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), internal and external users, for normal and emergency cases.

#### **Finding-2 – Unclaimed Bogus Check Restitution**

**Condition:** Balances for the Bogus Check Restitution (Merchant) account had outstanding balances at June 30, 2015. This is a cumulative amount as a result of vouchers not cashed by merchants and subsequently cancelled. They are as follows:

##### **Kay County**

- The Bogus Check Restitution (Merchant) account's outstanding balances at June 30, 2015 totaling \$7,166.03 could not be identified.

**Cause of Condition:** The District Attorney's office does not have formal policies establishing procedures to ensure that returned or unpaid vouchers are examined to determine the current status of the merchant for the re-issuance of the restitution.

**Effect of Condition:** This condition resulted in the Restitution Fund not being properly cleared.

**BRIAN HERMANSON, DISTRICT ATTORNEY  
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**Recommendation:** OSAI recommends that management research and determine the location of the merchants so that restitution can be properly remitted. Management should then contact the proper agency for further direction to determine the manner in which the remaining unidentified balance should be distributed.

**Management Response:** The current employee in the Bogus Check office continues to investigate the unidentified outstanding balances in the Bogus Check Merchant Account. This office has developed a procedure for the proper handling and disposition of funds collected on behalf of these victims and are subsequently cancelled due to statute of limitations or the inability to locate the victim. This procedure has been added to the office Policy and Procedure Manual.

**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.

### **Finding 2015-3 – Annual Reports**

**Condition:** As part of our review of District Attorney Programs, we ensure that amounts on annual reports reconcile with the County Treasurer’s balances, and are accurately reflected in the amounts submitted to the District Attorneys Council (DAC). From our review, the following discrepancies were noted:

#### **Noble County**

- **FY15** – Bogus Check Restitution Annual Report (Merchant account) beginning balances did not agree to prior year’s ending balances. Therefore, the County did not reconcile to the County Treasurer’s beginning and ending balances in the amounts of \$1,429.18 and \$1,696.42, respectively.

**Cause of Condition:** When preparing the annual report, program ledger balances were not reconciled to the County Treasurer’s balances to ensure accuracy. In addition, annual reports are reviewed by no one other than the preparer to ensure amounts reported are accurate.

**Effect of Condition:** These conditions resulted in inaccurate annual reporting of expenditure, income, and account balances submitted to the District Attorney’s Council (DAC) for program fund activity.

**Recommendation:** OSAI recommends that management adopt written policies and procedures for the accounting and reporting of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that the program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

**BRIAN HERMANSON, DISTRICT ATTORNEY  
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- Guidelines for the oversight of monthly reconciliations to the County Treasurer's account balances.
- Guidelines for accurate reporting of annual reports and the review process.

**Management Response:** This error was a typographical error. The report was corrected and resubmitted.

**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 errors, unauthorized transactions and misappropriation of assets.



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