

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 8

**BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM**

SUPERVISION 991 PROGRAM

RESTITUTION AND DIVERSION PROGRAM

DRUG ASSET FORFEITURE PROGRAM

For the period of July 1, 2015 through June 30, 2017



*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**

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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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March 20, 2018

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, 2015 through June 30, 2017.

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,

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

**BRIAN HERMANSON, 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

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, 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, 2015 through June 30, 2017.

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 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 that reads "Gary A. Jones". The signature is written in a cursive, flowing style.

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

March 13, 2018

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2017-1 – Internal Controls over Information Technology Reports, Daily Deposits, and Restitution and Diversion Program Fee Assessments

Condition: As part of our review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. In addition, information technology controls and processes were reviewed for the District. The following deficiencies were noted during our review:

Information Technology

- “Void” and “waiver” reports were not periodically reviewed and documented by an independent individual separate from the daily accounting functions.

Restitution and Diversion Program

Kay County

- Two (2) of the three (3) Restitution and Diversion Program agreements tested were incorrectly assessed \$25.00 in fees.

Daily Deposits

Noble County

- Deposits were not performed daily for the Supervision, Supervision 991 Fee, Bogus Check Restitution, and Victim Restitution Program accounts. During the period tested, it was noted that 2-5 days lapsed before payments were deposited with the County Treasurer.

Cause of Condition: The District Attorney’s office is not properly monitoring (District-wide) formal policies in place to guard against unauthorized transactions of computer data, to ensure proper Restitution and Diversion fees are assessed correctly, and to ensure payments received are deposited in a timely manner.

Effect of Condition: These conditions could result in unauthorized transactions of financial information and inaccurate fees charged to program defendants. Further, these conditions could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, and the accounting of District funds.

Recommendation: The Oklahoma State Auditor and Inspector’s Office recommends that management adhere to written policies and procedures for the accounting of program funds and the maintenance of client files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and ensure compliance with applicable laws and regulations. Such policies should include the following:

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- Guidelines for the administrative approval and review of IT software deletions, voids and waiver activity.
- Fees should be periodically reviewed to ensure the correct amount is being charged to defendants.
- Guidelines established over the daily collection process and the depositing of funds.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting processes.

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:

Information Technology:

Internal policies are in place which provides only designated staff members are allowed to void or waive financial information; however, IT capabilities have further been strengthened to limit this ability. A financial adjustment report is available in our software system, and all adjustments will be reviewed and documented monthly by our Finance Coordinator. This procedure has been added to our Policy and Procedure manual.

Restitution and Diversion Program:

This error affected two transactions and has been corrected and refunds issued accordingly.

Daily Deposits:

Deposits were not performed as required by office policy during a limited period wherein a new employee was not functioning at the required ability level and, therefore was terminated from employment in this office. The current employee(s) are making daily deposits per office policy. Cross training has been implemented to ensure deposits are made daily in the absence of the designated deposit employee.

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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