

STATUTORY REPORT

**DISTRICT ATTORNEY, DISTRICT 8  
BOGUS CHECK RESTITUTION FUND,  
RESTITUTION AND DIVERSION FUND AND  
DISTRICT ATTORNEY SUPERVISION FEE FUND**

For the period July 1, 2007 through June 30, 2009



*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

**MARK GIBSON, DISTRICT ATTORNEY  
DISTRICT 8  
STATUTORY REPORT  
BOGUS CHECK RESTITUTION FUND  
RESTITUTION AND DIVERSION FUND AND  
DISTRICT ATTORNEY SUPERVISION FEE FUND  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

January 25, 2011

Mark Gibson, 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 Counties, Oklahoma (the District) for the period July 1, 2007 through June 30, 2009.

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.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our procedures.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and to issue reports that serve as a management tool to the State to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

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

**MARK GIBSON, DISTRICT ATTORNEY  
DISTRICT 8  
STATUTORY REPORT  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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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.



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## Statutory Report

Mark Gibson, 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, and 991f-1.1, we have performed the following procedures as they relate to the records of the Bogus Check Restitution Fund, District Attorney Supervision Fee Fund, and Restitution and Diversion Fund for the period July 1, 2007 through June 30, 2009.

- Examine a group of receipts and deposits for propriety.
- Examine offender files to verify restitution agreements and court orders.
- 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, 991d, 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 the accounts to the County Treasurer's official depository records.
- 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 and Restitution and Diversion Program.

All information included in the financial records of the bogus check restitution program, district attorney supervision fee program, and restitution and diversion 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 general-purpose financial statements of Kay or Noble Counties.

Based on our procedures performed, with respect to items tested, District 8 was properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153, 22 O.S. §§ 114, 991d, 991f-1.1, and 19 O.S. 215.11; restitution agreements did not exceed three years in accordance with 22 O.S. §§ 114 and 991f-1.1; expenditures were used to defray the expenses of the District Attorney's office; the District Attorney reconciled the accounts to the County Treasurer's records; and the District Attorney prepared and submitted annual reports to the District Attorneys Council showing total deposits and total expenditures for the Bogus Check Restitution Program and Restitution and Diversion Program; however, with respect to submitting accurate reports, our finding is presented in the accompanying schedule of findings and responses. With respect to whether expenditures were supported by original invoices and approved claims and that goods and/or services paid for were received, our finding is presented in the schedule of findings and responses. We also noted a matter of segregations of duties in each of the programs, disbursements not requiring two signatures, and pre-numbered, duplicate receipts not used, and our findings are presented in the schedule of findings and responses.

This report is intended for the information and use of the District Attorney and Kay and Noble County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

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

November 2, 2010

**MARK GIBSON, DISTRICT ATTORNEY  
DISTRICT 8  
STATUTORY REPORT  
FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2009**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2008/2009-1—Segregation of Duties**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, key duties and responsibilities should be segregated among different individuals to reduce the risk of error or fraud. No one individual should have the ability to authorize transactions, have physical custody of assets, and record transactions.

Condition: A lack of segregation of duties exists in the Bogus Check Restitution Fund for Kay and Noble counties and in the Supervision Fund in Noble County because one employee receipts funds, balances the receipts to daily deposits, posts deposits to individual accounts, and reconciles the accounts at the end of the month to the Treasurer's office. This employee also calculates vouchers, writes vouchers, signs vouchers, posts vouchers and distributes vouchers.

A lack of segregation of duties exists in the Restitution and Diversion Fund for Kay County because one employee calculates and writes receipts, balances drawers, prepares deposits, posts receipts, writes vouchers, signs vouchers, posts vouchers, and distributes vouchers.

Another employee in Kay County also writes vouchers, signs vouchers, posts vouchers, distributes vouchers, and reconciles with the Treasurer.

A lack of segregation of duties exists in the Supervision Fund in Kay County because one employee calculates vouchers, writes vouchers, signs vouchers, posts vouchers, distributes vouchers and reconciles with the Treasurer.

Effect: 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. 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.

Views of responsible officials and planned corrective actions: Management did not respond.



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**Finding 2008/2009-2—DAC Annual Reports (Bogus Check Restitution Fund and Restitution and Diversion Fund)**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, the reports submitted to the District Attorneys Council should be supported by adequate documentation.

Title 22 O.S. § 991f-1.1.2 states in part:

By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Restitution and Diversion Program...

Title 22 O.S. § 116.B states in part:

By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Bogus Check Restitution Program...

Condition: The District Attorney's office submitted inaccurate reports for the period of July 1, 2007 through June 30, 2009, for the Bogus Check Restitution Fund and an inaccurate report for the Restitution and Diversion Program for the period of July 1, 2008 through June 30, 2009, to the District Attorneys Council.

For the period of July 1, 2007 through June 30, 2008, the District Attorney's office did not submit a report to the District Attorneys Council for the Restitution and Diversion program.

Effect: The condition resulted in a misstated report and undetected errors and in noncompliance with state statutes.

Recommendation: OSAI recommends management review the financial reports for accuracy prior to submission and submit a correct report to the District Attorneys Council.

Views of responsible officials and planned corrective actions: Management did not respond.

**Finding 2008/2009-4—Supporting Documentation (Bogus Check Restitution Fund and Supervision Fund) (Kay County)**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, adequate documentation should be present to support disbursements of funds.

Condition: It was noted that the District Attorney's office does not require claim forms and/or receiving reports for the purchases of goods and services from the Bogus Check Fee and Supervision accounts.

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Effect: This condition could result in unrecorded transactions, undetected errors, and/or misappropriation of assets.

Recommendation: OSAI recommends the District Attorney require adequate documentation in Kay County, such as claim forms and/or receiving reports for the purchase of goods and services.

Views of responsible officials and planned corrective actions: Management did not respond.

**Finding 2008/2009-5—Receipts (Restitution and Diversion Fund) (Kay County)**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, monies received should be recorded on pre-numbered and duplicate receipts.

Condition: We noted that the District Attorney's office does not use pre-numbered, duplicate receipts.

Effect: This condition could result in unrecorded transactions, undetected errors, and/or misappropriation of assets.

Recommendation: OSAI recommends the District Attorney record monies received in Kay County on pre-numbered, duplicate receipts.

Views of responsible officials and planned corrective actions: Management did not respond.



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