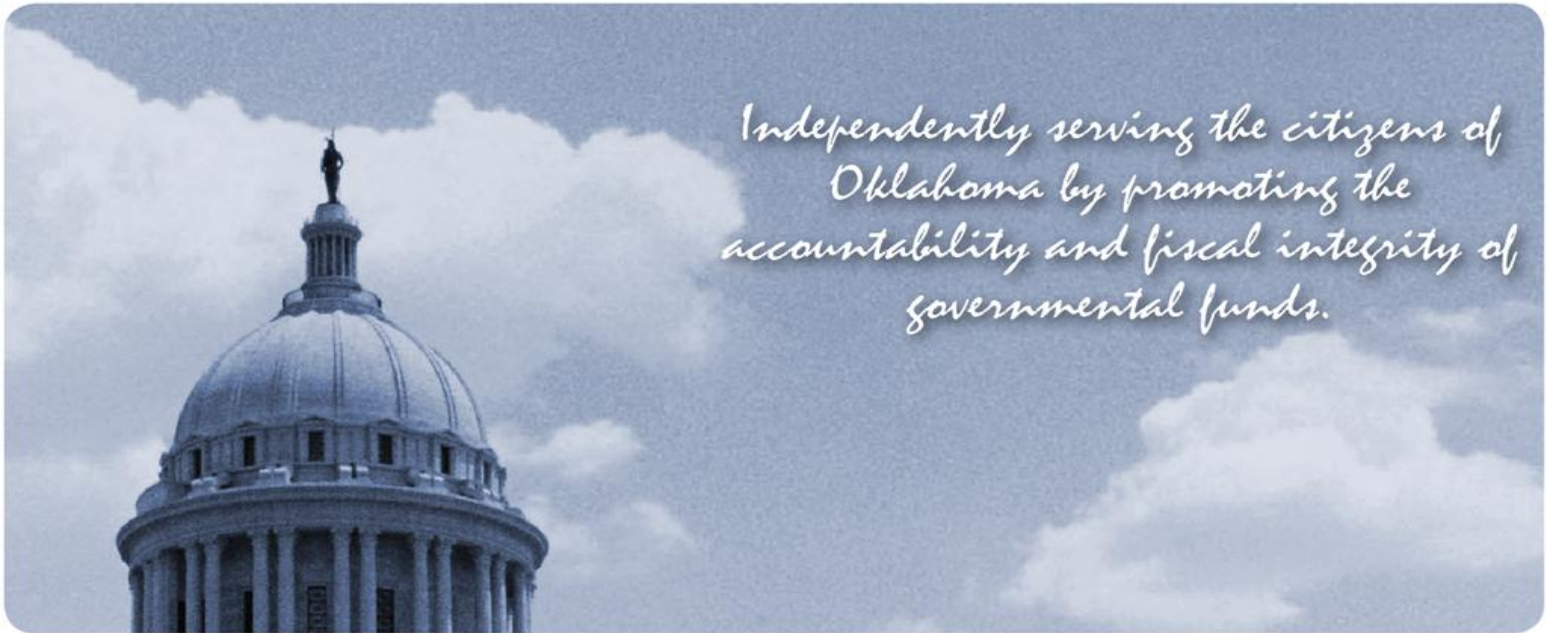


STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 9**

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

**LAURA AUSTIN THOMAS, DISTRICT ATTORNEY  
DISTRICT 9**

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

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

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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 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 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

September 28, 2016

Laura Austin Thomas, District Attorney  
District 9  
Payne County Courthouse  
Stillwater, Oklahoma 74074

Transmitted herewith is the statutory report for the District Attorney of District 9, Payne and Logan 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

**LAURA AUSTIN THOMAS, DISTRICT ATTORNEY  
DISTRICT 9  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2016**

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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.

**LAURA AUSTIN THOMAS, 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

Laura Austin Thomas, District Attorney  
District 9  
Payne County Courthouse  
Stillwater, Oklahoma 74074

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, 2014 through June 30, 2016.

### 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 Payne or Logan 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 fluid and cursive, with a long horizontal stroke at the end.

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

September 14, 2016



LAURA AUSTIN THOMAS, DISTRICT ATTORNEY  
DISTRICT 9  
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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2016-1 – Inadequate Segregation of Duties – Bogus Check Restitution, Supervision Fees, Restitution and Diversion, and Property Forfeiture Programs (Repeat Finding)**

**Condition:** Upon inquiry of the District Attorney’s staff and observation of records, the following are instances of the lack of separation of duties in personnel within District Attorney Programs:

**Payne County**

A lack of segregation of duties exists in the procedural process of the Property Forfeiture Program (DA Seizure and Drug Forfeiture accounts). One employee prepared and issued disbursements, maintained ledgers, reconciled monthly to the County Treasurer, and prepared the annual reports. There was no indication that someone other than the preparer reviewed the monthly reconciliations or annual report for accuracy.

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution, Supervision Fee, and Restitution and Diversion Programs. One employee prepared and delivered deposits to the County Treasurer (DA Fee accounts only), prepared and issued disbursements, maintains ledgers, reconciled monthly to the County Treasurer and prepared the annual reports. There was no indication that someone other than the preparer reviewed the deposits, monthly reconciliations or annual reports for accuracy.

**Logan County**

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution (Merchant Account) Program. One employee prepared disbursements, maintained ledgers, reconciled monthly to the County Treasurer, and prepared the annual report. There was no indication that someone other than the preparer reviewed the monthly reconciliations or annual report for accuracy.

**Cause of Condition:** Policies and procedures have not been designed to properly separate key accounting functions.

**Effect of Condition:** 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:** The Oklahoma State Auditor and Inspector’s Office (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. OSAI recommends management provide segregation of duties so that no one employee is able to perform all accounting functions. In the event that segregation of duties is not possible due to limited personnel, OSAI

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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.

**Management Response:** In regard to Payne and Logan Counties' lack of segregation of duties in the procedural process of the Property Forfeiture Program. The condition indicated there was no second set of eyes on the preparer of the monthly reconciliation and annual reports. In actuality there have been two additional reviewers: however, that was not documented. Resolution of this finding will be that another employee will initial the monthly reconciliation report and annual report after his review of the same.

**Criteria:** Demonstration of accountability and stewardship are goals used in evaluating management's accounting for funds. A basic component of adequate internal controls is the segregation of duties so that one individual cannot perpetuate and conceal errors and irregularities in the normal course of his/her duties. To help ensure a proper accounting of funds and strong internal controls, the duties of receiving, receipting, recording, and depositing cash and checks should be separated among employees.

**Finding 2016-2 – Inadequate Internal Controls Over the Accuracy of Bogus Check Restitution Annual Reports (Repeat Finding)**

**Condition:** As part of our review of the District Attorney's 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 Attorney Council (DAC). During our review, the following discrepancies were noted:

**Payne County**

- At June 30, 2015, total collections and total disbursements for the Bogus Check Restitution (Merchant portion) Annual Report did not reconcile with the County Treasurer in the amounts of \$50,705.03 and \$50,705.03, respectively.

**Logan County**

- At June 30, 2015, total collections and total disbursements for the Bogus Check Restitution (Merchant portion) Annual Report did not reconcile with the County Treasurer in the amounts of \$6,340.15 and \$6,486.20, respectively.

**Cause of Condition:** When preparing the Annual Reports, program ledger balances were not reconciled to the County Treasurer's balances to ensure accuracy. In addition, Annual Reports were not reviewed by someone other than the preparer to ensure amounts reported were accurate.

**Effect of Condition:** These conditions resulted in inaccurate annual reporting of disbursements, collections and account balances submitted to the District Attorneys Council (DAC) for program fund activity.

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**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:

- 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:** Another employee will now initial the review of the annual reports.

**Criteria:** Basic components of effective internal controls include an independent review of financial reports to ensure accuracy of the information. Written policies and procedures for performing essential duties should be adequately documented to ensure employees understand their responsibilities and to ensure reliability of financial reporting of the District.

**Finding 2016-3 – Unclaimed Bogus Check Restitution and Restitution and Diversion (RAD) Payments**

**Condition:** Balances for the Bogus Check Restitution (Merchant) and Restitution and Diversion (RAD) accounts had outstanding balances at June 30, 2016. This is a cumulative amount as a result of vouchers not cashed by merchants and subsequently cancelled. They are as follows:

**Payne County**

- The Bogus Check Restitution (Merchant) account had an outstanding balance at June 30, 2016 totaling \$8,224.63 which could not be identified.
- The Restitution and Diversion (RAD) account had an outstanding balance at June 30, 2016 totaling \$84.36 which could not be identified.

**Logan County**

- The Bogus Check Restitution (Merchant) account had an outstanding balance at June 30, 2016 totaling \$1,733.64 which could not be identified.

**Cause of Condition:** The District Attorney’s office did not have formal policies establishing procedures to ensure that returned or unpaid vouchers are examined to determine the current status of the merchant/victim for the reissuance of the restitution.

**Effect of Condition:** These conditions resulted in the Bogus Check Restitution (Merchant) and Restitution and Diversion (RAD) accounts not being properly cleared and victims not receiving restitution payments in a timely manner.

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**Recommendation:** OSAI recommends management research and determine the location of the merchants/victims 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:** This is an ongoing problem created when we can no longer find the victim or merchant and the vouchers that were returned. Resolution continues to be that we will send all unclaimed funds to DAC that cannot be identified as belonging to a merchant/victim.

**Criteria:** Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented and communicated to employees responsible for the remittance of restitution to victims. A periodic review of the program should be performed to ensure its effectiveness and to ensure compliance with laws and regulations.



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