

**VIRGINIA SANDERS
DISTRICT ATTORNEY, DISTRICT 17
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
FOR THE YEAR ENDED
JUNE 30, 2006**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

May 14, 2007

Virginia Sanders, District Attorney
District 17

Transmitted herewith is the statutory report for the District Attorney of District 17, Choctaw, McCurtain, and Pushmataha Counties, Oklahoma (the District), for the fiscal year ended June 30, 2006.

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,

JEFF A. McMAHAN
State Auditor and Inspector

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INTRODUCTORY INFORMATION

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.



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

Statutory Report

Virginia Sanders
District Attorney, District 17
McCurtain County Courthouse
Idabel, Oklahoma 74745

For the purpose of complying with 74 O.S. § 212 (E) and 22 O.S. § 114, we have performed each of the following procedures as they relate to the records of the Bogus Check Restitution Fund for the fiscal year June 30, 2006.

- Examine fees to determine that the correct fees were assessed, receipted, and deposited in compliance with 28 O.S. § 153.
- Determine whether expenditures were used to defray lawful expenses of the District Attorney's office and restitution agreements do not exceed two years in accordance with 22 O.S. § 114; whether expenditures were supported by invoices and approved claims; and that goods or services paid for were received.
- Determine whether the fund reconciles to the County Treasurer's records.
- Determine that the District Attorney prepared and submitted an annual report to the District Attorney's Council showing the total deposits and total expenditures and that expenditures were properly classified and presented.

All information included in the financial records of the bogus check restitution program is the representation of the District Attorney for their respective district.

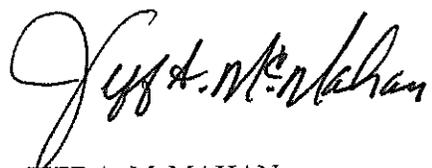
Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of Choctaw, McCurtain, or Pushmataha Counties.

Based on our procedures performed; District 17 is properly receipting, and depositing fees in compliance with 28 O.S. § 153; expenditures were used to defray lawful expenses of the District Attorney's office in accordance with 22 O.S. § 114; goods or services paid for were received; the fund balance reconciles to the County Treasurer's records; the District Attorney is preparing and submitting an annual report to the District Attorney's Council; and expenditures were properly classified and presented. With respect to the assessment of fees, expenditures being supported by invoices and approved claims, and restitution agreements, our findings are presented in the attached schedule of findings and recommendations.

We have prepared a detailed analysis of the Bogus Check Restitution Fund, which is presented following this report.

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

Sincerely,

A handwritten signature in black ink that reads "Jeff A. McMAHAN". The signature is written in a cursive style with a large initial "J" and "M".

JEFF A. McMAHAN
State Auditor and Inspector

January 23, 2007

VIRGINIA SANDERS, DISTRICT ATTORNEY
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BOGUS CHECK RESTITUTION FUND ANALYSIS

COLLECTION INFORMATION

Number of checks received from merchants	<u>3,638</u>	
Dollar amount of checks received		<u>\$ 311,499</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2005		\$ 57,193
Number of restitution checks collected	<u>5,377</u>	
Amount in restitution collected for merchants		237,337
Cancelled vouchers		260
Amount in restitution paid to merchants		<u>237,562</u>
Ending Restitution Balance at June 30, 2006		<u>\$ 57,228</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney fee balance at July 1, 2005		\$ 122,614
Amount of District Attorney fees collected during the period		259,921
Expenditures:		
Personnel costs	252,853	
Maintenance and operation costs	14,306	
Travel expenses	527	
Other expenses	<u>3,412</u>	
Total Expenditures		<u>271,098</u>
Ending District Attorney fee balance at June 30, 2006		<u>\$ 111,437</u>

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

Finding 2006-1 — Bogus Check Files

Criteria: Title 22 O.S. § 114 states in part,

- A. "The district attorney may enter into a written restitution agreement with the defendant to defer prosecution on a false or bogus check for a period to be determined by the district attorney, not to exceed two (2) years, pending restitution being made to the victim of the bogus check as provided in this section.
- B. Each restitution agreement shall include a provision requiring the defendant to pay to the victim a Twenty-five Dollar (\$25.00) fee and to the district attorney a fee equal to the amount which would have been assessed as court costs upon filing of the case in district court plus Twenty-five Dollars (\$25.00) for each check covered by the restitution agreement; provided, every check in an amount of Fifty Dollars (\$50.00) or more shall require a separate fee to be paid to the district attorney in an amount equal to the amount which would be assessed as court costs for the filing of a felony case in district court plus Twenty-five Dollars (\$25.00). This money shall be deposited in a special fund with the county treasurer to be known as the "Bogus Check Restitution Program Fund". This fund shall be used by the district attorney to defray any lawful expense of the district attorney's office. The district attorney shall keep records of all monies deposited to and disbursed from this fund. The records of the fund shall be audited at the same time the records of county funds are audited.
- C. Restitution paid by the defendant to the victim shall include the face amount of the check plus any charges the victim may have been required to pay to a bank as the result of having received the bogus check. If, instead of paying restitution directly to the victim, the defendant delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the staff assigned to the Bogus Check Restitution Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited."

Condition: During testwork of the bogus check case files, the following exceptions were noted:

- Of the bogus check cases tested in Pushmataha County, seven (7) restitution agreements were not signed by the defendant, two (2) cases had no agreements in defendants file, one (1) did not contain the returned check or a copy of the returned check, and one (1) defendant was not charged a fee.
- Of the bogus check cases tested in McCurtain County, five (5) payments were collected at inconsistent intervals years past the agreed upon schedule documented in the prosecution agreement. Two (2) bogus checks did not have the accurate fee assessed. One (1) case did not have an agreement on file.

Recommendation: Restitution agreements should be signed by the defendants and maintained in the Bogus Check file. We recommend that the returned check or a copy of the returned check be retained in each defendants file. Further, all defendants should be charged fees in accordance with state statutes.

Views of responsible officials and planned corrective actions: We concur with the State Auditor's findings. We will implement procedures to correct and prevent errors of this nature.

Finding 2006-2 — Bogus Check Expenditures

Criteria: Effective internal controls are necessary to ensure stewardship and accountability of public funds. Effective accounting procedures include all expenditures of the Bogus Check Restitution Fund be supported by approved claims and supporting documentation, such as invoices and claims.

Condition: During testwork of expenditures, the following exceptions were noted:

- Of the bogus check expenditures tested in McCurtain County, one (1) did not have an approved claim attached.
- Of the bogus check expenditures tested in Pushmataha County, four (4) did not have approved claims attached, and three (3) did not have an original invoice attached.
- Of the bogus check expenditures tested in Choctaw County, one (1) did not have an approved claim attached and two (2) did not have an original invoice attached.

Recommendation: All expenditures should be supported by properly completed and approved claims and properly detailed invoices.

Views of responsible officials and planned corrective actions: We concur with the State Auditor's findings. We will implement procedures to correct and prevent errors of this nature.

Finding 2006-3 — Bogus Check Accounts

Criteria: Title 22 O.S. § 114 B and C states in part,

- B. "...This money shall be deposited in a special fund with the county treasurer to be known as the "Bogus Check Restitution Program Fund". This fund shall be used by the district attorney to defray any lawful expense of the district attorney's office. The district attorney shall keep records of all monies deposited to and disbursed from this fund. The records of the fund shall be audited at the same time the records of county funds are audited.

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- C. Restitution paid by the defendant to the victim shall include the face amount of the check plus any charges the victim may have been required to pay to a bank as the result of having received the bogus check. If, instead of paying restitution directly to the victim, the defendant delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the staff assigned to the Bogus Check Restitution Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited.”

Condition: The bogus check fees and the bogus check restitution amounts are deposited into one account. All restitution payments and expenditures for the office are made on official depository vouchers.

Recommendation: Collections from the Bogus Check Program should be deposited into the District Attorney’s official depository account. Further more, restitution payments should be remitted to the defendant on official depository vouchers, and District Attorney fees should be transferred to an appropriated fund prior to making expenditures for the maintenance and operation of the office.

Views of responsible officials and planned corrective actions: We concur with the State Auditor’s findings. We will implement procedures to correct this issue.