

**DISTRICT ATTORNEY
DISTRICT 17**

**BOGUS CHECK
RESTITUTION FUND**

JUNE 30, 2007

**STATUTORY
REPORT**



Oklahoma State Auditor
& Inspector

**LAURA ROSS WALLIS
DISTRICT ATTORNEY, DISTRICT 17
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
FOR THE YEAR ENDED
JUNE 30, 2007**

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Steve Burrage, CPA
State Auditor and Inspector

September 12, 2008

Laura Ross Wallis, 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, 2007.

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 "Steve Burrage".

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

A handwritten signature in blue ink that reads "Michelle R. Day".

MICHELLE R. DAY, ESQ.
DEPUTY STATE AUDITOR & INSPECTOR

TABLE OF CONTENTS

Introductory Information ii
Statutory Report of State Auditor and Inspector 1
Bogus Check Restitution Fund Analysis 3
Schedule of Findings and Responses 4

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

Steve Burrage, CPA
State Auditor and Inspector

Statutory Report

Ms. Laura Ross Wallis
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 it relates to the records of the Bogus Check Restitution Fund for the fiscal year 2007.

- 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 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 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 reconciled to the County Treasurer's records; the District Attorney prepared and submitted an annual report to the District Attorney's Council; and expenditures were properly classified and presented. With respect to properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153; and expenditures being supported by invoices and approved claims, our findings are presented in the accompanying schedule of findings and responses.

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,



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR



MICHELLE R. DAY, ESQ.
DEPUTY STATE AUDITOR & INSPECTOR

August 8, 2008

BOGUS CHECK RESTITUTION FUND ANALYSIS

COLLECTION INFORMATION

Number of checks received from merchants	<u>2,654</u>	
Dollar amount of checks received		<u>\$ 240,937</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2006		\$ 57,228
Number of Restitution checks collected	<u>4,167</u>	
Amount in Restitution collected for merchants		231,372
Amount in Restitution paid to merchants		267,844
Cancelled Vouchers		<u>3,335</u>
Ending Restitution Balance at June 30, 2007		<u>\$ 24,091</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney Fee Balance at July 1, 2006		\$ 111,437
Amount of District Attorney fees collected during the period		260,014
Expenditures:		
Personnel Costs	144,439	
Maintenance and Operation Costs	46,670	
Travel Expenses	1,303	
Other Expenses	<u>13,762</u>	
Total Expenditures		<u>206,174</u>
Ending District Attorney Fee Balance at June 30, 2007		<u>\$ 165,277</u>

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2007-1 – Restitution Agreements

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 three (3) 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 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...”

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

- Of the bogus check cases tested in Pushmataha County, none of the cases had agreements on file.
- Of the bogus check cases tested in Choctaw County, four (4) of the cases did not have agreements on file.
- Of the bogus check cases tested in McCurtain County, four (4) of the cases did not have agreements on file.

Effect: This condition results in unaccountability of restitution agreements.

Recommendation: Restitution agreements should be signed by the defendants and maintained in the Bogus Check file.

Views of responsible officials and planned corrective actions: “As a newly elected District Attorney the audit covers a six-month period in which I had no authority or control. The audit does not specify when the alleged findings occurred. During the six months that I have been in office I have implemented a new bogus check program which allows more monitoring and a better ability to keep track of the cases which are deferred.

After receiving the finding I spoke with my bogus check coordinators and discussed the lack of agreements. I am assured that all steps are being taken to get agreements on all offenders.”

SA&I response: The case numbers in question were discussed with the District Attorney's office during fieldwork and again before the exit interview was completed.

Finding 2007-2 – 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 (BCRF) be supported by approved claims and supporting documentation, such as invoices and claims.

Condition: While performing the Bogus Check expenditures test, the following was noted:

- Of bogus check expenditures tested in Pushmataha County, one (1) voucher did not have supporting original invoices or documentation, one (1) voucher for mileage did not have a mileage claim or supporting documentation, two (2) claims did not have independent confirmation that goods and/or services were received.
- Of bogus check expenditures tested in McCurtain County, one (1) claim did not contain a signature from an authorized official.

Effect: This condition could result in misappropriation of expenditures of the BCRF.

Recommendation: All expenditures should be supported by properly completed and approved claims, detailed invoices, and independent confirmation that goods and/or services were received.

Views of responsible officials and planned corrective actions: "Again, the finding does not tell me which claims did not have the proper supporting documents. I have discussed the problem with Pushmataha County and have reviewed the procedure for claims as I did when I took over the office."

SA&I response: The claim numbers in question were discussed with the District Attorney's office during fieldwork and again before the exit interview was completed.

Finding 2007-3 – Bogus Check Accounts (Repeat Finding)

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

- B. "Each restitution agreement shall include a provision requiring the defendant to pay 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...”

- 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...”

Condition: The bogus check fees and the bogus check restitution amounts are deposited into the official depository account. However, the restitution payments and the expenditures for the office are all made on official depository vouchers from this depository account.

Effect: This condition could result in a co-mingling of monies due to victims (merchants), and allowed fees collected from defendants used to defray any lawful expenses of the District Attorney’s office.

Recommendation: Collections from the Bogus Check Programs should be deposited into the District Attorney’s official depository account. Restitution payments should be remitted to the victims on official depository vouchers and District Attorney fees should be deposited to an appropriated fund with the County Treasurer called the Bogus Check Restitution Program Fund.

Views of responsible officials and planned corrective actions: “Full records are kept in the District Attorney’s office of all restitution monies received and disbursed as required by statute. Full records are kept in the District Attorney’s office of all deposits and amounts paid to merchants. These amounts are reconciled monthly with the treasurer’s office.”

SA&I response: Title 22 O.S. § 114 requires that two separate accounts/funds be maintained. The restitution account within the official depository, used to remit restitution payments to the merchants, and the Bogus Check Restitution Program Fund, a special fund for expenditures from purchase orders to defray the lawful expenses of the District Attorney’s office.



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