

**DISTRICT ATTORNEY
DISTRICT 1**

**BOGUS CHECK
RESTITUTION FUND**

JUNE 30, 2007

**STATUTORY
REPORT**



Oklahoma State Auditor
& Inspector

**JAMES M. BORING, DISTRICT ATTORNEY
DISTRICT 1
STATUTORY REPORT
BOGUS CHECK RESTITUTION FUND
FOR THE YEAR ENDED
JUNE 30, 2007**

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STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA
State Auditor

MICHELLE R. DAY, ESQ.
Chief Deputy



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February 6, 2009

James M. Boring, District Attorney
District 1

Transmitted herewith is the statutory report for the District Attorney of District 1, Cimarron, Texas, Beaver, and Harper 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

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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.

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Statutory Report

James M. Boring
District Attorney, District 1
Texas County Courthouse
Guymon, Oklahoma 73942

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, 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 District Attorney entered into a written restitution agreement with the defendant to defer prosecution in accordance with 22 O.S. § 114.
- 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 Cimarron, Texas, Beaver, or Harper Counties.

Based on our procedures performed, District 1 was properly assessing and depositing the correct 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; expenditures were supported by invoices; 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 receipting the correct fees; whether expenditures were supported by approved claims; written restitution agreements; and payment and receipt of goods and services, our findings are included in the 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 Cimarron, Texas, Beaver, and Harper County officials. However, this report is a matter of public record and its distribution is not limited.



STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

December 16, 2008

BOGUS CHECK RESTITUTION FUND ANALYSIS

COLLECTION INFORMATION

Number of checks received from merchants	<u>1,777</u>	
Dollar amount of checks received		<u>\$ 126,035</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2006		\$ 5,853
Number of restitution checks collected	<u>1,662</u>	
Amount in restitution collected for merchants		265,885
Cancelled vouchers		29
Amount in restitution paid to merchants		<u>(261,911)</u>
Ending Restitution Balance at June 30, 2007		<u>\$ 9,856</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney fee balance at July 1, 2006		\$ 64,768
Amount of District Attorney fees collected during the period		161,411
Cancelled vouchers		246
Expenditures:		
Personnel costs	53,597	
Maintenance and operation costs	30,974	
Travel expenses	11,488	
Other	<u>13,605</u>	
Total Expenditures		<u>109,664</u>
Ending District Attorney fee balance at June 30, 2007		<u>\$ 116,761</u>

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2007-1 – Bogus Check Restitution Agreements

Criteria: Title 22 O.S. § 114 states, “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 not to exceed two (2) years, pending restitution being made to the victim of the bogus check as provided in this section.”

Condition: The testing of 15 case files in the Bogus Check Division of the District 1 District Attorney’s Office in Texas County revealed the following exceptions:

Two instances were noted where there was no signed restitution agreement in the offender's file nor were there criminal charges filed. (Checks No. 1002 and No. 1178)

There was one instance where the restitution agreement exceeded the statutory limit of two years. (Check No. 1091)

Effect: Failure to properly enter into restitution agreements may result in non-collection of appropriate restitution and fees and ultimately filing criminal charges on the offender.

Recommendation: OSAI recommends the District Attorney implement policies and procedures to comply with 22 O.S. § 114, and ensure bogus check offenders sign and adhere to a restitution agreement for the bogus check that does not exceed statutory limits.

Views of responsible officials and planned corrective actions: Our policy and procedure requires all persons to sign a restitution agreement for the payment of full restitution and fees in relation to bogus check matters within the time frame established by statute. However, there are situations where it is impossible for particular individuals to pay all of their restitution and fees within the two year time period that existed by statute in 2007.

In the course of handling several hundreds of these cases each year, it is not unusual for one of my offices to run into a situation where it is impossible to obtain a signed restitution agreement without creating a substantial injustice or actually preventing a person from being able to continue paying restitution to merchants by filing criminal charges against the person. All three of the individuals referenced by checks 1002, 1178, and 1091 have been timely in making monthly payments as agreed with this office or have in fact paid the full amount owed.

We will continue to require written restitution agreements from all persons within our bogus check restitution program.

As is our current policy, we will file criminal charges when and if we determine that an offender is intentionally not performing or failing to do what can reasonably be expected of them under the terms of their restitution agreement; but it will continue to be our policy to work with individuals when the best interest of justice demands that we do what is right in collecting bogus check restitution and fees.

Finding 2007-2 – Documentation of Receipt of Funds

Criteria: Effective internal controls include evidence of payment in the offender’s file provide adequate documentation of receipt of funds.

Condition: The testing of six cases in the Harper County District Attorney’s Office Bogus Check Restitution and Fee Accounts revealed that in four instances, receipt copies were not maintained in the offender file, nor was the receipt number posted to the “black ledger book.”

Effect: Failure to document the receipt of funds could lead to misappropriation of funds.

Recommendation: OSAI recommends the District Attorney implement policies and procedures to ensure that records of payments from offenders are adequately documented.

Views of responsible officials and planned corrective actions: The bogus check program in Harper County has continued to be operated under the old system that has been in place there for many years.

In order to improve tracking, documentation and all other aspects of the handling of bogus check matters, I have ordered and made arrangements to introduce and install the BounceBack software and bogus check system in Harper County in January 2009.

Finding 2007-3 – Bogus Check Fee Expenditures

Criteria: Effective accounting practices include expenditures be supported by approved claims and that an indication that goods or services were received be present prior to paying expenses of the Bogus Check Fee account.

Condition: The testing of 15 expenditures of the Bogus Check Restitution Program for each of the year June 30, 2007, for Texas and Beaver Counties revealed there was no indication that goods or services were received in four instances.

Additionally, the test of five expenditures for the year ended June 30, 2007, in Harper County, revealed five instances where expenditures were not accompanied by a claim for approval of the expense.

Effect: Failure to provide indication of receipt of goods or services and approval of expenses on claims could result in misappropriation of assets.

Recommendation: OSAI recommends that each expenditure be supported by approved claims and that evidence of receipt of goods or services be indicated prior to payment.

Views of responsible officials and planned corrective actions: In order to better address your concerns regarding the receipt of goods and services, I have prepared a new form (Receiving Report) that all employees will be required to complete upon the receipt of all goods and services. This form will be attached to the receipt, delivery ticket, or invoice received for all goods and services provided to our offices. This form has been drafted to substantially comply with the procedures followed by the county relating to the receipt of goods and services.

An additional "Approval for Payment" form has been prepared and is being used in all of my counties. This form requires my financial secretary in Texas County or my office secretary in each of my other counties to verify that all billing statements are correct and supported by appropriate receipts, tickets, and/or invoices. The "Approval for Payment" form must then be submitted to me or one of my assistants in charge of my outlying counties with all supporting documentation attached for final approval prior to payment. This form basically requires the secretary to match and verify all receipts, tickets, and invoices with monthly billings to insure the accuracy of all billings prior to submission to me or a designated assistant for final approval for payment.



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