

**DISTRICT ATTORNEY
DISTRICT 1**

**BOGUS CHECK
RESTITUTION FUND**

JUNE 30, 2008

**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, 2008**

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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, 2008.

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, 2008.

- 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, receipting, 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; 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 expenditures being supported by invoices and approved claims; whether goods or services paid for were received; and written restitution agreements, 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 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

**JAMES M. BORING, DISTRICT ATTORNEY
DISTRICT 1
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BOGUS CHECK RESTITUTION FUND ANALYSIS

COLLECTION INFORMATION

Number of checks received from merchants	<u>1,373</u>	
Dollar amount of checks received		<u>\$ 111,551</u>

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2007		\$ 9,856
Number of restitution checks collected	<u>1,355</u>	
Amount in restitution collected for merchants		235,424
Cancelled vouchers		589
Other collections		3,139
Amount in restitution paid to merchants		(235,280)
Amount in other collections paid out		<u>(548)</u>
Ending Restitution Balance at June 30, 2008		<u>\$ 13,180</u>

FEE AND EXPENDITURES INFORMATION

Beginning District Attorney fee balance at July 1, 2007		\$ 116,761
Amount of District Attorney fees collected during the period		151,011
Cancelled voucher		25
Expenditures:		
Personnel costs	124,862	
Maintenance and operation costs	21,544	
Travel Expenses	4,745	
Other	<u>3,538</u>	
Total Expenditures		<u>154,689</u>
Ending District Attorney fee balance at June 30, 2008		<u>\$ 113,108</u>

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2008-1 – Bogus Check Restitution Agreements (Repeat Finding)

Criteria: Title 22 O.S. § 114.A 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 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."

Condition: The testing of 15 case files in the Bogus Check Division of the District Attorney's Office in Texas County revealed two instances where there was no signed restitution agreement in the offender's file nor were there criminal charges filed.

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: 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. 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 2008-2 – Bogus Check Fee Expenditures (Repeat Finding)

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

Condition: The test of 15 expenditures of the Bogus Check Restitution Program for the year June 30, 2008, for Texas and Beaver Counties revealed 6 instances where there was no indication that goods or services were received.

Additionally, the test of 5 expenditures for the year June 30, 2008, in Harper County revealed 4 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.

Finding 2008-3 – Bogus Check Fund Expenses

Criteria: Effective internal controls include expenditures being supported by itemized invoices.

Condition: While performing test work on the bogus check fund for expenditures, the following was noted:

1. Voucher #1473 dated August 3, 2007, for hotel expense of \$256.53 was not supported by an itemized invoice for expenses. It appears the amount was handwritten on a faxed copy of an e-mail from the Sheraton Midwest City Hotel.

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2. Voucher #1501 dated January 2, 2008, for contract labor was not supported by an itemized invoice, but indicated on a handwritten note, that 25.5 hours were worked at a rate of \$6.00 per hour for a total of \$153.00.

Effect: Absent or inaccurate documentation could result in improprieties in the payment of expenditures.

Recommendation: OSAI recommends the District Attorney implement policies and procedures to ensure that all expenditures have a claim approving the expenditure, have the original invoice and receipt attached to the approved claim, and have receiving reports and/or other indication for receipt of goods/services.

Views of responsible officials and planned corrective actions: Beginning early in 2008, all travel claims, including claims for lodging, are being handled through the District Attorney's Council.

We do not recall why the amount was written on the motel receipt associated with the matter noted in your report. This obviously was something that was very unusual, and to my knowledge this had never happened before nor has it happened since.

Current policies require that the original invoices or receipts reflecting payment by the person seeking reimbursement be presented to the appropriate claims officer in my offices for reimbursement. These claims are always filed with an approved travel claim form used by the DAC, and appropriate invoices or receipts reflecting payment of motel bills must be attached.

With respect to the matters related to voucher #1501, policies are now in place that require all temporary, part-time labor to be supervised in their activity by an assigned supervisor, when this is possible, and the temporary employee is required to fill out the same time sheet form as all other employees.



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