

**DISTRICT ATTORNEY  
DISTRICT 8**

**BOGUS CHECK  
RESTITUTION FUND**

**FOR THE YEAR ENDED  
JUNE 30, 2007**



**STATUTORY  
REPORT**



Oklahoma State Auditor  
& Inspector

**MARK GIBSON  
DISTRICT ATTORNEY, DISTRICT 8  
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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December 1, 2008

Mark Gibson, District Attorney  
District 8

Transmitted herewith is the statutory report for the District Attorney of District 8, Noble and Kay 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

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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

Mr. Mark Gibson  
District Attorney, District 8  
P.O. Box 450  
Newkirk, Oklahoma 74647

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 Kay or Noble Counties.

Based on our procedures performed; 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 and approved claims; goods or services paid for were received; the fund balance reconciled to the County Treasurer's records; and expenditures were properly classified and presented. With respect to the District properly assessing, receipting and depositing the correct fees in compliance with 28 O.S. § 153 and to whether the District Attorney prepared and submitted an annual report to the District Attorney's Council, our findings are presented 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 Kay and Noble 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

September 3, 2008

**BOGUS CHECK RESTITUTION FUND ANALYSIS**

**COLLECTION INFORMATION**

Number of checks received from merchants	<u>2171</u>	
Dollar amount of checks received		<u>\$ 180,513</u>

**RESTITUTION INFORMATION**

Beginning Restitution Account Balance at July 1, 2006		\$ 38,603
Number of Restitution checks collected	<u>1,686</u>	
Amount in Restitution collected for merchants		237,676
Amount in Restitution paid to merchants		240,175
Cancelled Vouchers		<u>2,814</u>
Ending Restitution Balance at June 30, 2007		<u>\$ 38,918</u>

**FEE AND EXPENDITURES INFORMATION**

Beginning District Attorney Fee Balance at July 1, 2006		\$ 90,165
Amount of District Attorney fees collected during the period		204,887
Refund		50
Cancelled Voucher		108
Expenditures:		
Personnel Costs	116,200	
Maintenance and Operation Costs	30,967	
Other Expenses	<u>41,300</u>	
Total Expenditures		<u>188,467</u>
Ending District Attorney Fee Balance at June 30, 2007		<u>\$ 106,743</u>

**Finding 2007-1 – DAC Annual Reports (Repeat Finding for Kay County)**

Criteria: According to 22 O.S. § 114, the district attorney shall keep records of all monies deposited to and disbursed from the Bogus Check Restitution Fund.

The overall goal of effective internal controls is to demonstrate accountability and stewardship. To help ensure a proper accounting of funds, a written reconciliation should be performed between the Bogus Check Restitution Annual Report and the Treasurer's Official Depository Ledger.

Condition: While reviewing the FY07 Bogus Check Restitution Annual Report, we noted that collection and disbursement balances are not reconciled to the County Treasurer's fund balances. Also, the Annual Reports submitted to the District Attorney's Council (DAC) were not accurate.

Effect: Inaccurate information has been submitted to the DAC.

Recommendation: OSAI recommends a written reconciliation be performed between the Bogus Check Restitution Annual Report and the Treasurer's Official Depository ledger to ensure accuracy of the report.

Views of responsible officials and planned corrective actions: An amended report has been submitted to the DAC.

**Finding 2007-2 – Fees (Repeat Finding for Kay County)**

Criteria: According to 22 O.S. § 114. 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."

Condition: During our test work of offender files, we noted several instances where the District Attorney fees were waived on bogus checks. Also, in one instance the fees charged were incorrect and in another instance the total amount of payments on the restitution schedule did not equal the amount due.

Effect: This could result in loss of revenue to the District Attorney's office and possible inequities to all individuals in the application of restitution agreements.

**MARK GIBSON  
DISTRICT ATTORNEY, DISTRICT 8  
SCHEDULE OF FINDINGS AND RESPONSES  
JUNE 30, 2007**

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Recommendation: OSAI recommends District Attorney's fees be charged for every bogus check received and should be consistent and agree to the fee schedule (Court Cost Assessment for Purposes of Imposing State Fees).

Views of responsible officials and planned corrective actions:

**Mark L. Gibson—District Attorney**

I have received a copy of your findings as to the Bogus Check funds for Kay County. I understand your findings and will take appropriate action to address them.



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