The Pima County Attorney's Office

BAD CHECK PROGRAM GUIDEBOOK

BAD CHECKS ARE BAD NEWS
THE PIMA COUNTY ATTORNEY'S OFFICE
CAN HELP YOU COLLECT YOUR MONEY!

Dear Community Member:

The passing of bad checks is a very serious problem in Pima County. That is why the Pima County Attorney's Office joined with local law enforcement agencies and many local business people in 1996 to establish the Pima County Attorney's Bad Check Program.

The program is designed to help reimburse individuals or merchants for the substantial losses they suffer from receiving bad checks. We are very pleased to have returned millions of dollars to businesses and individuals participating in this program.

This program is available to any person or organization in Pima County. The *Guidebook* contains all the information and forms you will need to participate in this **free** service. By working together, we can make a difference for Pima County.

Sincerely,

Barbara LaWall
Pima County Attorney

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Introduction

Since 1996, the Pima County Attorney's Bad Check Program has provided an opportunity for many bad check offenders to avoid prosecution by paying full restitution for the check, along with a statutory collection fee.

If you receive a bad check, you are first required to notify the check writer that they must reimburse you for the entire amount within the specified time period set by statute. If you do not receive full payment within that time frame, the check writer may be prosecuted.

This *Guidebook* is intended to inform you of ways to avoid receiving bad checks. In the event you become a victim, it is also intended to help you participate in the Bad Check Program to recover your loss. Please read the *Guidebook* completely and follow all the steps to avoid delays.

Our desire is to reduce the occurrence of bad check writing in Pima County and to reduce the losses incurred by everyone.

PROTECT YOURSELF FROM BAD CHECKS

The first thing you should do when you receive a check is put it through a simple screening process. Try to recognize a bad check before you accept it. Learn the preventive measures outlined below and teach them to your employees. These measures will help reduce your losses and increase the chances for full recovery on bad checks.

Look at the check:

- Be suspicious of checks that have a low check number or no printed check number. Nearly 90% of bad checks are drawn on accounts less than one year old. If the check numbers are handwritten or lower than 125, exercise caution.

- Checks must be dated the day you receive them. Post-dated checks may not be prosecuted by this office. You take them at your own risk.

- DO NOT accept pre-signed checks. Make certain that every check you receive is signed in your presence. It is vital that the signature is legible. If not, ask the writer to print his/her name on the check. Compare the name with a valid driver's license or other I.D.

- Make sure that the numeric dollar amount matches the written dollar amount. A check for $16.25 should say in words: "Sixteen and twenty-five/100 dollars" or "Sixteen and 25/100 dollars".

- Banks will not accept checks with discrepancies. Verify to see if any words or numerals on the checks have been altered. Look for different handwriting, different color ink, or any other suspicious differences. If you notice discrepancies, you should reject the check.

- Look for changes or additions to the name of the payee. If the color, density, or writing of the name appears different, there may have been an alteration. If the check appears to be made payable to two or more payees (for example: "John or Sue") and the second name appears different in color, density, or writing, there may have been an alteration.

- Make sure the check writer DOES NOT write his/her Driver's License number or other information on the check. Ask for I.D. and do it yourself. This protects against false numbers being provided. The presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution.

Always Demand Identification

The main purpose of requiring identification is to minimize the chance of receiving a bad check. Also, each form of identification you record on a check is another way for the Bad Check Program to identify the check writer at a later date. For example, the driver's license number written on each check allows the Bad Check Program to obtain a copy of the license. The copy

of the license supplies a photo, handwriting sample, and description of the check writer, which is needed for successful prosecution, and issuance of an arrest warrant.

- The best form of identification is an Arizona Driver's License or an Arizona Identification Card. A photo I.D. card with a signature is your best defense against forgery.

- Compare the name, address, and signature on the license with those on the check. Also, be sure to compare the photo on the I.D. with the person. Check the license for the expiration date. DO NOT accept checks with expired identification.

- Secondary identification may also help you identify the check writer. Examples of secondary identification are military or business I.D.'s (preferably with a picture). These are often times helpful in identifying a subject.

- RECORD ALL INFORMATION ON THE FRONT OF THE CHECK. Information recorded on the back of a check may be obscured by the bank's stamp.

- Always record your name, initials, or employee I.D. number as the receiver of the check. The Pima County Attorney's Office must have a witness to successfully prosecute a criminal case. The witness must be the person who accepted the check. Be certain that the acceptor's identity and branch location, if applicable, can be determined from the face of the check by the person in your company who is responsible for preparing the paperwork for submission to our office. We may return the check to you if all of the proper identification is not provided.

- Write the check writer's driver's license number on the front of the check. Record the home address and telephone number unless this information is already printed on the check.

- Remember to include any other identifying information, such as: names, vehicle license plate numbers, etc.

If you still have doubts about a check, don't accept it

You are not required by law to accept checks. You may lose the sale, but you won't lose the merchandise. Remember, you can't determine if a check is good by the appearance of the check writer. Only through the careful examination of each check and the diligent use of the guidelines in this section can you reasonably assume that a check is good. Your knowledge and use of these techniques are your main deterrent to bad check writers.

WHAT TO DO WHEN YOU RECEIVE A BAD CHECK

Use the information in this section of the guidebook to establish a store policy, and be ready to submit the needed paperwork to the Bad Check Program. Pre-print the required Demand for Payment Notice on your letterhead. You may also remove and photocopy the Demand for

Payment Notice provided in the appendix. Maintain a supply of the needed forms: Demand for Payment, Witness Forms and the Bad Check Program Victim Information Form all of which can be found in the appendix and online at www.pcao.pima.gov.

Send a Demand for Payment to the Bad Check Issuer and Complete Affidavit of Mailing

- **There are two different types of Demand for Payment Forms:**

  A) **Form A** is for checks **$4999.99 or less**; a Class 1 Misdemeanor or
  B) **Form B** is for checks **$5000.00 or more**; a Class 6 Felony

- Prepare the Demand for Payment Notice and have it served on or sent to the person who wrote or passed the check. DO NOT change the language in the Demand for Payment Notice because it is written with language required by law.

- The Demand for Payment Notice may be actual notice or notice in writing that is sent by registered or certified mail, return receipt requested, or by regular mail that is supported by an Affidavit of Mailing completed by you. Written notice shall be sent to the issuer at the issuer's address shown on any of the following:

  1) The Check
  2) The records of the bank or other drawee
  3) The records of the person to whom the check is issued or passed

- You may select the method of delivery, but it is required that you attempt notice.

- If you elect to deliver the Demand for Payment by mail, you must complete an **Affidavit of Mailing** to accompany your documentation submitted to the Bad check Program.

- If the check is **$4999.99 or less**, and the Demand for Payment Notice is hand delivered, wait **12** calendar days before submitting the check to the Bad Check program. If sent by mail, the law adds 5 days for mailing; so you must wait **17** days from the date of mailing before submitting the check to the Bad Check Program.

- If the check is **$5000.00 or more**, and the Demand for Payment Notice is hand delivered, you must wait **12** calendar days before submitting the check to the Bad Check Program. If sent by mail, the law adds 5 days for mailing; so you must wait **17** days from the date of mailing before submitting the check to the Bad Check Program. Issuing a bad check in the amount of $5000.00 or more is a Class 6 Felony. You are entitled to demand the full amount of the check, including accrued interest at the rate of 12% per year and any other applicable fees.

- If you mail the Demand for Payment Notice, you should print or type "Address Correction Requested" on the envelope in the event the addressee has moved.

- If an individual offers to pay you for their bad checks within the statutory **12 or 17** day period following receipt of the Demand for Payment Notice, accept only cash, money orders or cashier's checks. You may also collect a $25.00 fee for reasonable costs. **DO NOT AT ANY TIME ACCEPT PARTIAL PAYMENT FROM THE CHECK WRITER.** **DO NOT** return the bad check to the check writer until you have received payment in full.

Prepare the Witness Form and Victim Information Form

- Prepare the Witness Form. Complete those blanks for which you have immediate information. The remaining blanks may be completed later, but prior to the time you send the check(s) and other documents to the Bad Check Program. The witness who received the bad check will likely be a necessary witness for any trial that may occur in the matter.

- A Victim Information Form is needed the first time you send in bad checks. You only need to send another Victim Information Form if you change your business name, address or phone number.

SUBMITTING A CHECK TO THE BAD CHECK PROGRAM

- If the check writer does not respond to the Demand for Payment Notice, the check may then be submitted to the Pima County Attorney's Bad Check Program. In doing so, please be certain that all items on the Witness Form and Victim Information Form are completed. If you have a more current address for the bad check writer than the address printed on the check, include that address on the Witness Form.

- Place the following items in a large mailing envelope:

  - One Victim Information Form, regardless of the number of checks you are sending.
  - Original check(s) or certified bank copy or original documentation returned to you by the bank.
  - A Witness Form for *each* check.
  - Copy of the Demand For Payment Notice.
  - Affidavit of Mailing if Demand for Payment Notice was sent by mail.
    - Or an unopened envelope containing the Demand Notice if the mail is returned.

4) Mail to: Pima County Attorney or Hand Deliver to: Pima County Attorney

Bad Check Program	Bad Check Program
P.O. Box 111	32 N. Stone 2nd Floor
Tucson, Arizona 85702	Tucson, AZ 85701

Information Concerning Case Status

Persons requesting information or status on a case that has been submitted to the Bad Check Program should wait at least 60 days before making an inquiry. You may either call our office or make a written inquiry. If inquiry is made in writing, please include your name and daytime phone number and the name of the bad check writer.

Once you have filed a bad check complaint with the Pima County Attorney's Bad Check Program, DO NOT ACCEPT RESTITUTION FOR THE CHECK FROM ANYONE EXCEPT THE PIMA COUNTY ATTORNEY'S BAD CHECK PROGRAM. All restitution for such checks must be collected by the Bad Check Program. If you accept funds from anyone other than the Pima County Attorney's Office, you may be liable for the statutory fee. Also, you will not have the check in your possession to return to the writer once you have been reimbursed.

We collect the face value of each check, plus a $25.00 service fee for the victim for each check submitted, authorized under A.R.S. § 44-6852.

Restitution Payments

When a bad check writer makes a payment to the Bad Check Program, it is recorded and deposited into an account. Restitution checks will be issued to the victims the following month after a payment is received. Along with your payment, you will receive a computer printout containing the Bad Check Program I.D. number, the name of the bad check writer, the bad check number, the date and amount of the check.

Original Checks Cannot be Returned Once Collection Begins

Once a check is submitted to the Bad Check Program, the Pima County Attorney's Office retains the right to proceed with criminal prosecution of the check writer. When the Pima County Attorney's Office proceeds with prosecution, the check becomes evidence in the criminal proceeding and sole control of that check rests with the Pima County Attorney's Office. In summary, no checks will be returned without the consent of the Pima County Attorney's Office and no checks will be returned if a criminal complaint has been filed in court.

If, after you have requested prosecution, the check writer contacts you and wants to pay for the check(s), you must refer him/her to the Pima County Attorney's Bad Check Program. DO NOT accept full or partial payment on the face value of the check. Doing this will end all collection efforts by our office on your behalf.

MATTERS NOT HANDLED BY THE BAD CHECK PROGRAM

Bad checks that are included in a civil action are not eligible for enforcement under the Program. Also, if you have already obtained a civil judgment against a check writer that includes the bad check, it cannot be submitted to this office.

The checks listed below are not accepted by the Bad Check Program; however, civil remedies may be available. For further information regarding civil action contact the Pima County Consolidated Justice Court at 115 N. Church Avenue, Tucson, Arizona 85701.

- "Stop Payment" check(s).
- Checks issued in matters which constitute civil disputes. For example: a check that is issued as payment towards a loan (informal or formal) or extension of credit, or a check that is issued as partial payment towards a grand total that is due for goods or services.
- Checks not written or passed within Pima County: these may be eligible for prosecution in the county which the check was passed.
- Checks that are altered or suspected of being forgeries: these must be reported to law enforcement agencies having jurisdiction in your area.
- Checks dated more than two (2) years ago.
- Dual signature checks. Such checks require the signature of both account holders.
- Post-dated checks for which the payee has been expressly notified or has reason to believe that the drawer did not have on deposit sufficient funds to ensure payment on presentation.
- Checks dishonored as a result of an adjustment to the person's account by a credit institution without notice to the person.
- Credit card slips or electronic checks.
- Checks issued by a debtor to a credit adjustment company or a collection agency.
- Checks redeemed by a guarantor, i.e. assigned by a payee to a guarantor.
- Two party checks
- Stale dated checks: checks must be presented to a financial institution for payment within 30 days of the date written on the face of the check.

HOW TO CONTACT THE BAD CHECK PROGRAM

Telephone: (520) 740-4100 Fax: (520) 882-5966

Mail to:	Pima County Attorney Bad Check Program P.O. Box 111 Tucson, Arizona 85702	In Person:	Pima County Attorney Bad Check Program 32 North Stone Avenue, 2nd Floor Tucson, Arizona 85701

WHAT BECOMES OF THE BAD CHECK WRITER

As soon as the Pima County Attorney's Bad Check Program receives the completed packet with the check(s), the check writer's name is entered into the Bad Check Program database. A decision is made as to whether the person will be offered the opportunity to enter into the Diversion Program and pay restitution, or whether the Bad Check Program will proceed immediately with prosecution. If the check writer has no prior history of writing bad checks, he/she will be given the opportunity to enter into diversion, pay restitution and statutory fees.

For those check writers who do not respond to the requests to pay full restitution, criminal charges are possible. A check writer who fails to respond risks arrest, time in jail, and possible conviction, which would result in paying full restitution and the statutory fines and fees. In addition, after conviction, he/she could have their income tax refund intercepted, restitution liens filed and wages garnished.

The filing of charges against a check writer depends on whether sufficient evidence exists to charge the person with a criminal offense. You will be notified if our office commences prosecution or refers the case for felony investigation.

If charges are filed and the check writer enters a plea of not guilty, a trial date will be set. The recipient of the check, and any witnesses that are needed will be subpoenaed to appear at the time of the trial. It is your responsibility to keep our office up to date with your most current contact information. If restitution is paid prior or subsequent to a trial, funds will be disbursed through the Bad Check Program as indicated under "Restitution Payments" outlined in the *Guidebook*.

BAD CHECK PROGRAM FORMS

This *Guidebook* contains copies of all the forms that you will need to submit to the Bad Check Program in order to start collection/prosecution process. They may be printed for your future use.

- DEMAND FOR PAYMENT FORM A
- DEMAND FOR PAYMENT FORM B
- AFFIDAVIT OF MAILING
- VICTIM INFORMATION FORM
- WITNESS FORM

NOTICE OF DISHONORED CHECK
DEMAND FOR PAYMENT
Form A: use for check(s) $4999.99 or less; a Class 1 Misdemeanor

TO: _____ DATE: _____
Name of check issuer/writer

_____
Street address

_____
City, State, Zip

PURSUANT TO ARS § 13-1807, THE CHECK OR INSTRUMENT SHOWN OR DESCRIBED BELOW, ISSUED BY YOU HAS BEEN DISHONORED:

Check No: _____ Check date: _____

Originating Institution, Bank or other Drawer: _____

Amount payable to: _____

Reason for dishonor (marked on instrument)_____

PURSUANT TO ARS § 13-1808, YOU HAVE 12 CALENDAR DAYS FROM THE DATE OF THIS NOTICE TO PAY OR TENDER TO THE HOLDER NAMED BELOW THE FULL AMOUNT OF THE CHECK OR INSTRUMENT, TOGETHER WITH ALL REASONABLE COSTS, AND STATUTORY FEES.

PAYMENT MUST BE IN THE FORM OF A MONEY ORDER, CASHIER'S CHECK OR CASH. YOU ARE HEREBY NOTIFIED THAT UNLESS THIS AMOUNT IS PAID IN FULL WITHIN THE TIME SPECIFIED, THE HOLDER OF THE DISHONORED CHECK OR INSTRUMENT MAY TURN IT AND ALL OTHER AVAILABLE INFORMATION RELATING TO THIS INCIDENT OVER TO THE PIMA COUNTY ATTORNEY'S OFFICE FOR CRIMINAL PROSECUTION.

Check Amount $ _____

Fee Amount $ _____

Total Owed $ _____

Victim's signature: _____Telephone #: (___)_____

Business Name: _____

Address: _____

_____

NOTICE OF DISHONORED CHECK
DEMAND FOR PAYMENT
Form B: use for check(s) $5000.00 or more; a Class 6 Felony

TO: _____ DATE: _____
Name of check issuer/writer

_____
Street address

_____
City, State, Zip

PURSUANT TO ARS § 13-1807, THE CHECK OR INSTRUMENT SHOWN OR DESCRIBED BELOW, ISSUED BY YOU HAS BEEN DISHONORED:

Check No: _____ Check date: _____

Originating Institution, Bank or other Drawer: _____

Amount payable to: _____

Reason for dishonor (marked on instrument)_____

PURSUANT TO ARS 13-1808 AND 13-1807(E), YOU HAVE 12 CALENDAR DAYS FROM THE DATE OF THIS NOTICE TO PAY OR TENDER TO THE HOLDER NAMED BELOW THE FULL AMOUNT OF THE CHECK OR INSTRUMENT, TOGETHER WITH ALL REASONABLE COSTS, AND STATUTORY FEES, INCLUDING ACCRUED INTEREST AT THE RATE OF 12% PER YEAR .

PAYMENT MUST BE IN THE FORM OF A MONEY ORDER, CASHIER'S CHECK OR CASH. YOU ARE HEREBY NOTIFIED THAT UNLESS THIS AMOUNT IS PAID IN FULL WITHIN THE TIME SPECIFIED, THE HOLDER OF THE DISHONORED CHECK OR INSTRUMENT MAY TURN IT AND ALL OTHER AVAILABLE INFORMATION RELATING TO THIS INCIDENT OVER TO THE PIMA COUNTY ATTORNEY'S OFFICE FOR CRIMINAL PROSECUTION.

Check Amount $ _____ Accrued Interest $ _____ at 12% per year

Fee Amount $ _____

TOTAL OWED (CHECK + INTEREST + FEE) $ _____

Victim's signature: _____Telephone #: (___)_____

Business Name: _____

Address: _____

_____

AFFIDAVIT OF MAILING
THE DEMAND FOR PAYMENT

_____
Your Name

_____
Street Address

_____
Street Address Line Two

_____
City, State, Zip

STATE OF ARIZONA)
) ss. AFFIDAVIT OF MAILING
County of Pima)

I, _____, being first duly sworn, depose and state that I
Name of Person who Mailed Demand for Payment

mailed, by regular first class mail, on the ____ day of _____, 20_____, a
Day ***Month*** ***Year***

Demand for Payment Notice, Form _____addressed as follows:
A or B

_____
Check Writer Name

_____
Street Address

_____
Street Address Line Two

_____
City, State, Zip

Dated this ____ day of _____, 20_____.
Day ***Month*** ***Year***

_____
Signature

_____
(Print Name)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

_____ _____
Notary Public **My Commission Expires**

Submit to: PCAO Bad Check Program, P.O. Box 111, Tucson, AZ 85702.
Questions: (520) 740-4100

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Pima County Attorney's Office
Bad Check Program

VICTIM INFORMATION FORM

INSTRUCTIONS: Please read the GUIDEBOOK before completing this form. Incomplete or submissions may be returned. Complete this form the first time you submit a check, unless you change your address.

INDIVIDUAL VICTIM (Not a Business) Complete the following:

Name: _____ **Daytime Phone:** _____

Mailing Address:_____

_____

Email:_____

BUSINESS VICTIM Complete the following:

Note: If you have more than one location where checks are accepted, submit one VIF per each store.

Legal Business Name:_____

DBA (if applicable):_____ **Store #:**_____

Business Mailing Address:_____

_____

Physical Address (if different): _____

_____

Telephone:_____ **Fax:** _____

Type of Business:_____ **Email:** _____

Business Owner's Name: _____

When we have questions about your checks or need to contact your company:

Contact Person:_____ **Title:** _____

Their Telephone: _____ **Fax:** _____

Email Address: _____

Restitution Checks Should be Made:

Payable to: _____

Mailing Address: _____

_____

ONCE A CHECK IS SUBMITTED TO THE PROGRAM:

Avoid contact with the Check Writer. Do not accept any payments from the Check Writer.
Have the Check Writer contact PCAO office for payment arrangements

PROTECT YOURSELF:

Develop and post for employees and customers a check cashing policy that includes inspecting and recording Photo ID (Driver License or ID #) on every check.

Please sign acknowledging that you have read the information above:

_____ _____

Signature Date

_____ _____

Printed Name Title

How did you hear about the Program?

_____

_____

Submit to: PCAO Bad Check Program, P.O. Box 111, Tucson, AZ 85702.
Questions: (520) 740-4100

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Pima County Attorney's Office
Bad Check Program
WITNESS FORM

INSTRUCTIONS: Please read the GUIDEBOOK before completing this form. Incomplete Witness Statements may be returned to you. USE ONE FORM FOR EACH CHECK SUBMITTED

Please answer the following questions, print all information in ink and sign below.	**NO**	**YES**
1. Was this check presented to a financial institution more than 30 days after the check's date?		
2. Was the check post-dated at the time of acceptance?		
3. Does this matter involve a dual-signature or two-party check?		
4. Was the check received as partial payment towards a grand total for goods or services?		
5. Were you asked to hold or delay depositing the check?		
6. Does the check involve a loan (informal or formal) or an extension of credit?		
7. Have you received a civil judgment in your favor involving this check?		
8. Is the check dated more than two (2) years ago?		
9. Was the check assigned by a payee to a guarantor?		
A "Yes" answer to any of the above questions indicates this is a Civil Matter ineligible for the Program	--	--

Check Number_____ $ Amount_____ Date Issued_____
Address where check was passed/accepted: _____
How was check received? ( ) In person ( ) Mail ( ) Drop Box ( ) COD for Purchase ( ) USPS/Express
Date Demand for Payment Notice sent:_____
Demand for Payment Notice was sent by: ( ) Certified Mail ( ) First Class Mail* ( ) Personal Delivery
*If sent by First Class Mail, also include the Affidavit of Mailing.

Staple ORIGINAL check or certified bank copy and a copy of Demand for Payment Notice

CHECK WRITER Name: _____
Address: _____
Telephone: _____
Any other information that would identify or locate the check writer (DOB, SSN, Physical Description, Car license #, Other names used, Employer, Family/Friend, etc.):_____

EMPLOYEE/WITNESS who accepted check: _____
Address: _____
Telephone (work): _____ (home):_____

Can you verify this as the check you accepted? ( ) No ( ) Yes—because of:
( ) Deposit stamp on back ( ) Witness Initials ( ) Witness Handwriting ( ) Other_____
Did you record Driver's License Number or Arizona ID Number on the Check? ( ) No ( ) Yes, #_____
Is it your normal practice to compare Photo ID with the check writer standing in front of you? ( ) Yes ( ) No

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS STATEMENT IS COMPLETE AND TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

_____ Date_____
Witness Signature

If witness no longer employed: _____
Authorized Agent Name

_____ Date_____
Authorized Agent Signature

Submit to: PCAO Bad Check Program, P.O. Box 111, Tucson, AZ 85702.
Questions: (520) 740-4100

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