



DISTRICT ATTORNEY DISTRICT 19

Statutory Report

For the period of July 1, 2018 through June 30, 2020

Cindy Byrd, CPA
State Auditor & Inspector

**TIM WEBSTER, DISTRICT ATTORNEY
DISTRICT 19**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE PROGRAM
DRUG POSSESSION DIVERSION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
SUPERVISION PROGRAM
SUPERVISION 991 PROGRAM**

FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020

This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991f-1.1, and 63 O.S. § 2-506 has not been printed, but is available on the agency's website (www.sai.ok.gov) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Prairie Collection (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to 65 O.S. § 3-114.

November 17, 2021

Tim Webster, District Attorney
District 19
Bryan County Courthouse
Durant, Oklahoma 74701

Transmitted herewith is the statutory report for the District Attorney of District 19, Bryan, Atoka and Coal County, Oklahoma (the District) for the period of July 1, 2018 through June 30, 2020.

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.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during our engagement.

Sincerely,



CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR



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INTRODUCTORY INFORMATION

BOGUS CHECK RESTITUTION PROGRAM

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 program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.

DISTRICT ATTORNEY DRUG ASSET FORFEITURE PROGRAM

The drug asset forfeiture program was created by the Oklahoma Legislature in 1971. The fund is not subject to fiscal year limitations and is to be used for enforcement of controlled dangerous substance laws, drug abuse prevention and education, and is maintained by the district attorney to be used at his or her discretion for those purposes. The revenues for said fund come from the proceeds of forfeited assets. Any cash, vehicles, real property, or other assets used in the commission of or acquired as a result of a crime as described in the Uniform Controlled Dangerous Substances Act is presumed to be forfeitable.

DRUG POSSESSION DIVERSION PROGRAM

The drug possession and diversion program was created by the Oklahoma Legislature in 2016 as a special type of deferred prosecution program. This law allows district attorneys to enter into a written agreement with a defendant to defer prosecution of a charge for the possession of a controlled dangerous substance and possession of drug paraphernalia, or both, for a period to be determined by the district attorney, not to exceed twenty-four (24) months. During this period, the defendant shall be supervised in the community by the district attorney or by a private supervision program.

RESTITUTION AND DIVERSION PROGRAM

The restitution and diversion program was created by the Oklahoma Legislature in 2001 as a special type of deferred prosecution program. The legislation required that each district attorney create such a program. The purpose of the program is to allow the district attorney the discretion to divert criminal complaints involving property crimes from criminal court and to collect restitution for victims.

The program allows the district attorney's office to receive, disburse, and monitor victim restitution payments. The program offers an alternative way to address criminal conduct.

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DISTRICT ATTORNEY SUPERVISION PROGRAM

The district attorney supervision program was created by the Oklahoma Legislature in 2005 as an alternative from supervision by the Department of Corrections. When the court imposes a deferred or a suspended sentence for any offense and does not order supervision by the Department of Corrections, the offender shall be required to pay the district attorney a monthly supervision fee. However, the legislation provides that in hardship cases, the district attorney shall expressly waive all or part of the fee.

DISTRICT ATTORNEY SUPERVISION 991 PROGRAM

The district attorney supervision 991 program was created by the Oklahoma Legislature in 2013. If the offender is *not* ordered supervision by the district attorney (as described above) “the offender shall be required to pay a fee to the district attorney’s office during the first two (2) years of probation to compensate the district for the costs incurred during the prosecution of the offender and for the additional work of verifying the compliance of the offender with the rules and conditions of his or her probation”. However, the legislation provides the district attorney may waive any part of this requirement in the best interests of justice.

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District 19
Bryan County Courthouse
Durant, Oklahoma 74701

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991a (hh), 991.f-1.1, and 63 O.S. §§ 2-506 and 2-901, we have performed the following procedures as they relate to the records of the District Attorney's programs for the period of July 1, 2018 through June 30, 2020.

Bogus Check Restitution, Supervision, Supervision 991, Drug Possession Diversion, and Restitution and Diversion Programs:

- Determine that internal controls are designed and operating over the collections and disbursement process.
- Examine fees to determine that the correct fees are assessed, receipted, and deposited in compliance with 28 O.S. § 153, 22 O.S. §§ 114, 991d, 991a (hh), 991f-1.1, 63 O.S. § 2-901, and 19 O.S. § 215.11.
- Determine whether disbursements are used to defray the expenses of the District Attorney's office in accordance with 22 O.S. §§ 114, 991d, 991a (hh), 991f-1.1, and 63 O.S. §2-901, and whether disbursements are supported by approved claims, invoices, and verification that goods or services paid for were received.
- Determine whether the District Attorney reconciles accounts with the County Treasurer's ledgers.
- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council that reflects total collections and total disbursements for the Bogus Check Restitution Program, Supervision Program, Supervision 991 Program, Drug Possession Diversion Program, and Restitution and Diversion Program.

Drug Asset Forfeiture Program:

- Determine that internal controls are designed and operating over the collections and disbursement process.
- Determine that the District Attorney maintains a true and accurate inventory of all property seized in accordance with 63 O.S. § 2-506.K.
- Review sale documentation for selected cases to determine whether forfeited assets were sold after a public auction to the highest bidder in accordance with 63 O.S. §§ 2-506 and 2-508.
- Review the distribution of proceeds to determine the distribution was in accordance with court orders pursuant to 63 O.S. §§ 2-506.K and 2-508.
- Test disbursements to determine they are supported by approved claims, invoices, and independent verification that goods or services paid for were received.



- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council reflecting the total collections, total disbursements, beginning and ending balances in accordance with 63 O.S. § 2-506.L.3.
- Determine if the District Attorney reconciles account balances with the County Treasurer.

All information included in the financial records of the bogus check restitution program, supervision program, supervision 991 program, drug possession diversion program, restitution and diversion program, and the drug asset forfeiture program are 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 basic financial statement of Bryan, Atoka and Coal County.

Based on our procedures performed, we have presented our findings in the accompanying schedule.

This report is intended for the information and use of the District Attorney and District management. However, this report is a matter of public record and its distribution is not limited.



CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR

October 18, 2021

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SCHEDULE OF FINDINGS AND RESPONSES

Finding-2020-001 – Lack of Internal Controls Over the Segregation of Duties for the District Attorney Drug Asset Forfeiture, Bogus Check Restitution, Supervision Fee, and Supervision Fee 991 Programs (Repeat Finding)

Condition: Upon inquiry of the District Attorney’s staff and observation of records, the following instances of the lack of segregation of duties in personnel within District Attorney’s programs were noted:

Bryan County

Drug Asset Forfeiture, Bogus Check Restitution (Bogus Check Restitution and District Attorney Fee Accounts), Supervision Fee and Supervision 991 Fee Programs

- One employee prepares and maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no indication that someone independent of the preparer reviews the District ledger, annual report, or monthly reconciliations for completeness and accuracy.

Coal County

Supervision Fee and Supervision 991 Fee Programs

- One employee receives payments, issues receipts, prepares and delivers deposits. There is no independent review for completeness and accuracy of the deposit process .

Cause of Condition: Policies and procedures have not been designed and implemented to properly separate key accounting functions.

Effect of Condition: A single person having responsibility for more than one area of recording, authorization, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner.

Recommendation: The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends management be aware of these conditions and realize that concentration of duties and responsibilities in a limited number of individuals is not desired from a control point of view. The most effective controls lie in management’s oversight of office operations and a periodic review of operations. OSAI recommends management provide segregation of duties so that no one employee can perform all accounting functions. If segregation of duties is not possible due to limited personnel, OSAI recommends implementing compensating controls to mitigate the risks involved with a concentration of duties. Compensating controls would include separating key processes and/or critical functions of the office and having management review and approval of accounting functions.

Management Response:

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District Attorney: This condition involves a lack of internal control and segregation of duties relating to certain accounts. This demonstrates a need for oversight and redundancy in the handling of funds and making of reports. The corrective policy is for the Chief Investigator for District 19 to review the monthly reports on the Drug Asset Forfeiture, Bogus Check Restitution, Supervision Fee and Supervision 991 Fee Programs for Atoka, Coal, and Bryan Counties. This is deemed to be the appropriate person because he is not a person who deals with any of the accounts and can give monthly reviews of each of these accounts and the associated reports.

Criteria: The United States Government Accountability Office's *Standards for Internal Control in the Federal Government* (2014 version) aided in guiding our assessments and conclusion. Although this publication (GAO Standards) addresses controls in the federal government, this criterion can be treated as best practices and may be applied as a framework for an internal control system for state, local, and quasi-governmental entities.

The GAO Standards – Principal 10 – Design Control Activities – 10.03 states part:

Segregation of duties

Management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets so that no one individual controls all key aspects of a transaction or event.

Finding 2020-002 – Lack of Internal Controls Over Written Policies and Procedures for Information Technology, Bogus Check Restitution, Supervision Fee, Supervision 991 Fee, and Victim Restitution Programs (Repeat Finding)

Condition: As part of the review of District Attorney accounts and records, a test of receipts, disbursements, and cash balances was performed. The District Attorney has written policies and procedures and/or has designed internal controls for the safeguarding and reporting of program funds. However, we did note deficiencies in certain areas, which include the following:

Information Technology

Bryan, Atoka, and Coal Counties

- Employees can delete, void payments and complete write-offs/adjustments to a defendant's account without prior approval. Software voids, deletion, and write-off reports are not reviewed periodically and independently for unusual activity.

Cause of Condition: The District Attorney office has not fully implemented Districtwide procedures to safeguard against unauthorized access to computer data and to ensure collections, disbursements, and

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financial reporting for the Bogus Check Restitution, Supervision Fee, Supervision 991 Fee, and Victim Restitution programs are properly approved, and payments are processed in a timely manner.

Effect of Condition: These conditions could result in unauthorized access to financial information, employee error for the reporting and documentation of the collection of payments, improper disbursements, and inaccurate accounting of fund activity for the District.

Recommendation: OSAI recommends that management fully implement the written policies and procedures of the office and implement further internal controls for the safeguarding of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the administrative approval and review of IT software deletions, voids and write-off activity.

Furthermore, OSAI recommends management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organizations internal control process over time and implement appropriate controls and oversight of each program's daily transactions and recordkeeping. This will ensure that management has taken the necessary steps in safeguarding the department's assets.

Management Response:

District Attorney: This condition relates to the lack of internal controls over information technology relating to the Bogus Check Restitution, Supervision Fee, Supervision 991 Fee, and Victim Restitution Programs. Specifically, there is the ability within the recordkeeping system of software to void payments, to make corrections to the payment history of the accounts, , and to conduct "write-offs" of account balances. Policies are in place for part of this, but a new policy will be written and signed by all staff who can receive payments that there will be no "write-offs" of account balances in any of the three counties without prior written approval of the District Attorney or the First Assistant. Such written approval would be scanned into the system with the account adjustment and recorded with the daily deposits, even though it is not actually a "deposit". Further, any void payments or corrections of payment history will be approved by the District Attorney or First Assistant on the day of such change or the next business day and the person making such changes shall include a detailed note as to the reason for such change on the system entry. At the end of each month, the Chief Investigator, will run an Adjustment Report which will reflect all "write-offs", void payments, and corrections of payment history to check for the reason of such entry changes.

Criteria: The GAO Standards – Section 2 – Establishing an Effective Internal Control System OV2.24 states in part:

Safeguarding of Assets

Management designs an internal control system to provide reasonable assurance regarding prevention or prompt detection and correction of unauthorized acquisition, use, or disposition of an entity's assets.

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The GAO Standards – Principle 10 – Design Control Activities 10.03 states:

Segregation of Duties

Management establishes physical control to secure and safeguard vulnerable assets. Examples include security for and limited access to assets such as cash, securities, inventories, and equipment that might be vulnerable to risk of loss or unauthorized use. Management periodically counts and compares such assets to control records.

Additionally, Principle 10 – Segregation of Duties 10.12 states:

Management considers segregation of duties in designing control activity responsibilities so that incompatible duties are segregated and, where such segregation is not practical, designs alternative control activities to address the risk.

Finding 2020-003 – Lack of Internal Controls Over Policies and Procedures for District Attorney Drug Asset Forfeiture Program and Noncompliance Over Forfeited Inventories (Repeat Finding)

Condition: Based on the review of District Attorney Drug Asset Forfeiture (DAF) cases and seized/forfeited property inventory for each County within the District, the following internal control weaknesses were noted:

Bryan, Atoka, and Coal Counties

- The District does not maintain a true and accurate inventory for all seized and/or forfeited property for the County.

Cause of Condition: The District Attorney’s office has not fully implemented District-wide procedures to ensure collections, disbursements, and financial reporting for the Drug Asset account are properly documented to ensure that internal controls are being implemented. Further, District policies are not being complied regarding tracking of civil forfeiture cases and the disposition of property inventory.

Effect of Condition: These conditions resulted in noncompliance with state statute and could create errors in the accounting and reporting of collections for the District. These conditions could also affect case activity and the location or disposition of seized property.

Recommendation: OSAI recommends that management implement written policies and procedures for the accounting of program funds and the maintenance of files. Implementing this recommendation would ensure that all employees be made aware of their duties and responsibilities and that the program is in compliance with applicable laws and regulations. Such policies could include the following:

- Guidelines for the oversight and documentation of case file management and status of forfeited and pending forfeiture inventory.

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OSAI further recommends management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organizations internal control process over time and implement appropriate controls and oversight of each program’s daily transactions and recordkeeping. This can help ensure that management has taken the necessary steps in safeguarding the department’s assets.

Management Response:

District Attorney: This condition relates to a lack of internal controls on Drug Asset Forfeiture Program and noncompliance with Forfeited Inventories. The District Attorney will implement policies that no forfeitures will be filed unless they meet certain criteria, and these policies will be sent to all law enforcement agencies in the District. Specifically, cash will be deposited with the County Treasurer of that respective county or there will not be a forfeiture action.

Further, the Chief Investigator is currently working with law enforcement agencies in all three counties to determine the location of all assets which have been seized in order that disposition of such assets can be completed. Each District Attorney Office within the District will maintain a list or ledger of all assets being held for pending forfeiture with specific descriptions of the assets, the location, the owner, and the status of the forfeiture action which will be reviewed on a quarterly basis by the District Attorney or First Assistant. The goal of this is that all forfeiture cases will have the assets monitored and each case will have a date for action, leaving no case sitting without an anticipated court date.

Criteria: The GAO Standards – Principle 10 – Design Control Activities 10.03 states:

Segregation of Duties

Management establishes physical control to secure and safeguard vulnerable assets. Examples include security for and limited access to assets such as cash, securities, inventories, and equipment that might be vulnerable to risk of loss or unauthorized use. Management periodically counts and compares such assets to control records.

The GAO Standards Section 2 – Establishing an Effective Internal Control System - OV2.24 states:

Safeguarding of Assets

Management designs an internal control system to provide reasonable assurance regarding prevention or prompt detection and correction of unauthorized acquisition, use, or disposition of an entity’s assets.

The GAO Standards – Section 2 – Objectives of an Entity - OV2.23 states in part:

Compliance Objectives

Management conducts activities in accordance with applicable laws and regulations. As part of specifying compliance objectives, the entity determines which laws and regulations apply to the entity. Management is expected to set objectives that incorporate these requirements

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Title 63 O.S. §2-506 K states in part, “Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section...”

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