



DISTRICT ATTORNEY DISTRICT 1

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**JAMES M. BORING, DISTRICT ATTORNEY
DISTRICT 1**

**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

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

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

Based on our procedures performed, we have presented our finding 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

August 27, 2021

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SCHEDULE OF FINDINGS AND RESPONSES

Finding-2020-001 – Lack of Internal Controls Over the Bogus Check Restitution, Supervision Fees, Supervision 991, and Drug Asset Forfeiture Programs (Repeat Finding)

Condition: Based on inquiry of District Attorney staff and observation of the collections and disbursements processes within Cimarron and Harper Counties, the duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions are not adequately segregated.

There were not specific instances of noncompliance identified during the audit; however, District offices located in Cimarron and Harper County have one full-time support staff employee and one part-time Assistant District Attorney who reviewed and approved the accounting functions performed by the support staff employee. In each of these District offices funds were collected, and checks were issued for District expenses. In the absence of the Assistant District Attorney, accounting functions can be performed by the staff employee without prior review and approval.

Additionally, the staff employee in the Cimarron County office often received cash payments for fees, issued handwritten receipts, and manually posted collections to accounting ledgers.

Furthermore, in the Cimarron County office, voided receipts were marked “VOID” and retained in the receipt book, but there was no indication of review by someone other than the preparer of the voided receipts.

Cimarron County does not utilize the District’s computer software system and does not rely on the computer in the office for maintaining offender/court records. All receipts are handwritten, and no approval is required to void a receipt. The District tracks offender balances manually on index cards.

Cause of Condition: Policies and procedures have not been completely designed and implemented to adequately segregate the duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions in the absence of the Assistant District Attorney in the county offices located in Cimarron and Harper Counties.

Effect of Condition: A single person having responsibility for more than one area of accounting functions 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 that management be aware of these conditions. A 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 overseeing of office operations and a periodic review of operations. If a 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 and implementing the use of the software system

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provided. Compensating controls would include separating key processes and/or critical functions within the office, having management review and approve accounting functions, and implementation and utilization of the District's software in each District office.

Management Response:

District Attorney:

- * The Assistant District Attorney in each of these counties is responsible for weekly and monthly approval of all expenditures and for review of monthly summaries of all receipts, deposits, expenditures, and reconciliation with the monthly Treasurers reports before submission to the Texas County office.
- * With the exception of emergencies, the Assistant District Attorney is responsible for signing all checks paid by the offices. The receiving reports and approval for payment forms, when applicable, together with attached copies of all invoices or related billings, and other applicable documentation relating to expenditures will be submitted to the responsible Assistant District Attorney for review and approval at the time of issuance of payments.
- * Cimarron County has been combined with Texas County on most accounts, with the exception of the Drug Asset Forfeiture and Bogus Check Restitution Programs. Beaver County has been combined with Harper County on most accounts, with the exception of the Drug Asset Forfeiture Program. Furthermore, the final accounting as to all receipts of funds from these three counties is in fact centralized in the Texas County office. Each of these three offices is staffed by a single employee. As soon as possible after the end of the month, the staff of these offices reconciles each of their accounts with the County Treasurer's office. Detailed monthly reports of all receipts and expenditures are prepared, and the supervising Assistant District Attorney in each of these Counties' reviews and verifies the account reconciliations and monthly reports. After review by the Assistant District Attorney, all reports, including the County Treasurer's reports, are forwarded to the Financial Administrator in the Texas County Office. The Financial Administrator enters all receipts and disbursements from each account in the offices' accounting software program. At that time the receipts and disbursements are balanced with the monthly reports and Treasurer's reports from each of these counties. Upon reconciliation by the Finance Coordinator in the Texas County office, a monthly summary report is prepared and submitted to the District Attorney. The Financial Administrator prepares a summary of all receipts and account balances of all accounts and provides them to the District Attorney for monthly review and tracking. The District Attorney maintains a separate monthly tracking summary of the totals for monthly receipts and account balances. The Financial Administrator maintains the accounting software records which are provided to the District Attorney for periodic review. The current office policy is for all these reports to be completed and submitted to the District Attorney for his review prior to the close of business on the 10th of each month.

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- * Any account adjustments made to offender accounts in Bounceback are tracked and monthly reports of those for the entire District are reviewed by the Administrative Assistant and signed off on by the District Attorney or Assistant District Attorney.
- * As for Cimarron County not utilizing the District's computer software system; with the exception of bogus checks, all other Cimarron County collections are deposited and tracked on BounceBack in Texas County. In the event Cimarron County accepts a cash payment and a handwritten receipt is given, the County office secretary seals the cash in an envelope and dated, defendant's name, case number, and amount of cash and the envelope is signed by both the County office secretary and defendant. Then the envelope is transmitted to Texas County for deposit and tracking on the defendant's account through BounceBack. Or, if the cash was paid for Bogus Check Restitution which is the only account still tracked in Cimarron County, the sealed envelope is delivered to the County Treasurer for deposit.
- * It is simply not possible with current staffing levels of one person offices to segregate the duties in each of these counties in the collection and depositing processes. There is only one employee present in the office to receive funds, make deposits, balance receipts to daily deposits, post payments to individual accounts, and deliver deposits to the County Treasurer.

The following corrective policies have been implemented:

- * As to Cimarron County: An employee will have the Assistant District Attorney sign all "voided" receipts. We also plan to eventually move the collection of bogus checks over to BounceBack which will eliminate the index card tracking system entirely.

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 the publication (GAO Standards) addresses controls in the federal government, this criterion can be treated as best practices and may be applied as framework for an internal control system for state, local, and quasi-governmental entities.

The GAO Standards – Principle 10 – Design Control Activities – 10.03 states in 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.

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Additionally, Principle 10 – Segregation of Duties - 10.12 states:

Segregation of Duties

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.

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S·A·I
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