



DISTRICT ATTORNEY DISTRICT 17

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**MARK MATLOFF, DISTRICT ATTORNEY
DISTRICT 17**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE 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

Mark Matloff, District Attorney
District 17
McCurtain County Courthouse
Idabel, Oklahoma 74745

Transmitted herewith is the statutory report for the District Attorney of District McCurtain, Choctaw and Pushmataha 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,



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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.

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), and 63 O.S. §§ 2-506, 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 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), 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, and 991a (hh), 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, and Supervision 991 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, 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 McCurtain, Choctaw, or Pushmataha 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

September 15, 2021

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SCHEDULE OF FINDINGS AND RESPONSES

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

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

McCurtain County

A lack of segregation of duties exists in the procedural process of the District Attorney Drug Asset Forfeiture, Supervision Fee, and Supervision 991 Fee Programs.

- One employee prepares and delivers deposits, prepares and issues expenditure claims, maintains district ledgers, reconciles accounts monthly to the County Treasurer’s records, and prepares the annual reports. There is no indication that someone independent of the preparer reviews and approves disbursements, the annual report, or monthly reconciliations for accuracy.

Pushmataha County

A lack of segregation of duties existed in the procedural process of the Bogus Check Restitution (Bogus Check Restitution and District Attorney Fee account), Supervision Fee, and Supervision 991 Fee programs.

- One employee prepares disbursements, maintains district ledgers and prepares the annual reports. There is no indication that someone independent of the preparer reviews monthly reconciliations or annual reports for accuracy.

Cause of Condition: Policies and procedures have been designed; however, not completely implemented to properly separate key accounting functions within the District Attorney’s programs.

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 overseeing 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

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separating key processes and/or critical functions of the office and having management review and approval of accounting functions.

The District Attorney staff should provide evidence of review and approval of accounting functions including:

- Someone other than the preparer reviewing documents,
- Initialing and dating the review of claims, and vouchers,
- Re-performing and reviewing reconciliations, and
- Initialing and dating the review of monthly reports and annual reports.

Management Response:

District Attorney: The District Attorney and management are aware and understand the importance of segregation of duties. We will ensure that all reconciliation documents, monthly and yearly reports are reviewed by the District Attorney or Assistant District Attorney with signatures and dates.

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 – 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.

Additionally, Principle 10 – Segregation of Duties states:

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

10.13 – Segregation of duties helps prevent fraud waste and abuse in the internal control system. Management considers the need to separate control activities related to authority, custody, and accounting operations to achieve adequate segregation of duties. In particular, segregation of duties can address the risk of management override. Management override circumvents existing control activities and increases fraud risk. Management addresses

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this risk through segregation of duties but cannot absolutely prevent it because of the risk of collusion, where two or more employees act together to commit fraud.

10.14 – If segregation of duties is not practical an operational process because of limited personnel or other factors, management designs alternative control activities to address the risk of fraud, waste or abuse in the operational process.

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

Condition: Upon inquiry of District staff and observation of District Attorney accounts and records, it was determined the District Attorney has written policies and procedures and/or has designed internal controls for the safeguarding and reporting of program funds. However, tests of receipts, disbursements, and cash balances of programs, resulted in certain deficiencies, which include the following:

Information Technology

McCurtain County

- Employees can delete or void payments without prior approval.
- Voided receipts, deletions, and write-off reports were not reviewed periodically.

Choctaw County

- Employees can delete or void payments without prior approval.
- Voided receipts, deletions, and write-off reports were not reviewed periodically.

Pushmataha County

- Employees can delete or void payments without prior approval.
- Voided receipts, deletions, and write-off reports were not reviewed periodically.

Bogus Check Restitution Program

- District Attorney Bogus Check Fee ledgers were not maintained for FY19 and FY20 by the District. Therefore, a monthly reconciliation to the County Treasurer’s ledgers was not performed to ensure completeness and accuracy of District balances.

A test of ten (10) disbursements from each County office reflected the following exceptions:

Pushmataha County

- Nine (9) Bogus Check Restitution Program disbursements were not properly approved by management.

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- Nine (9) Bogus Check Restitution Program disbursements did not have evidence of a receiving report or an independent verification that the goods and/or services have been received by the District.
- Nine (9) Bogus Check Restitution Program disbursements did not have an itemized invoice attached.
- Nine (9) Bogus Check Restitution Program disbursements were unable to be determined if they were to defray District Attorney expenses.

Supervision Fees Program

A test of ten (10) disbursements from each County office reflected the following exceptions:

McCurtain County

- Ten (10) Supervision Fee disbursements were not properly approved by management.
- Ten (10) Supervision Fee disbursements did not have evidence of a receiving report or an independent verification that goods and/or services have been received by the District.
-

Supervision 991 Fees Program

A test of ten (10) disbursements from each County office reflected the following exceptions:

McCurtain County

- Six (6) Supervision 991 Fee disbursements did not have evidence of a receiving report or an independent verification that goods and/or services have been received by the District.

Cause of Condition: The District Attorney's office has not fully implemented District-wide policies and procedures to safeguard against unauthorized access to computer data and to ensure disbursements for the Bogus Check Restitution, Supervision Fee, and Supervision 991 Fee Programs are properly approved and have all supporting documentation to verify goods and /or services have been received.

Effect of Condition: These conditions could result in unauthorized access to financial information, improper disbursements, and inaccurate accounting of fund activity for the District. In addition, without proper approval, invoices could be processed for goods/services that were not received by the District or that were not for the lawful operation of the District.

Recommendation: OSAI recommends that management adhere to District-wide written policies and procedures of the office and implement further internal controls for the safeguarding of Program funds. Implementing this recommendation would ensure all employees are aware of their duties and responsibilities and ensure 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 implementation of Program data safeguards, such as IT software automatic time out features on computer workstations.
- Guidelines for the administrative approval and review of IT software deletions, voids and write-off activity.

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- Guidelines for the process of approval and documentation of verification of program disbursements.

Furthermore, we recommend management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organization's 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: Each month we print a report showing all deleted and voided payments for each account. The finance coordinator and office manager review these reports for accuracy. We will now have the District Attorney review these reports, date and sign for approval. All disbursements will have a receiving report and a signed sheet from the District Attorney approving the disbursement.

Criteria: 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. Some entities may set objectives to a higher level of performance than established by laws and regulations.

The GAO Standards – Principle 16 – Perform Monitoring Activities – 16.05 states:

Internal Control System Monitoring

Management performs ongoing monitoring of the design and operating effectiveness of the internal control system as part of the normal course of operations. Ongoing monitoring includes regular management and supervisory activities, comparisons, reconciliations, and other routine actions. Ongoing monitoring may include automated tools, which can increase objectivity and efficiency by electronically compiling evaluations of controls and transactions.

Finding 2020-003 – Internal Controls Over Written Policies and Procedures and Noncompliance Over the District Attorney Drug Asset Forfeiture Program (Repeat Finding)

Condition: Upon inquiry of District staff and observation of the Drug Asset Forfeiture Program accounts and records, it was determined 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 of disbursements.

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McCurtain County

A test of ten (10) Drug Asset Forfeiture Program disbursements reflected the following exceptions:

- Ten (10) of the ten (10) disbursements tested were not properly approved.
- One (1) of the ten (10) disbursements tested did not have an original and/or itemized invoice attached to the claim.
- Seven (7) of the ten (10) disbursements tested did not have a receiving report or an independent verification that goods and/or services had been received.

Pushmataha County

The District did not maintain a true and accurate inventory for all seized and/or forfeited property.

Cause of Condition: The District Attorney's office has not fully implemented District-wide formal policies for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure that internal controls are implemented. Additionally, the District is not properly accounting for civil forfeiture cases and the disposition of property inventory in accordance with state statute.

Effect of Condition: These conditions could result in employee error for the reporting and documentation of disbursement transactions, and the accounting of funds. These conditions could result in improper disbursements, and inaccurate accounting of fund activity for the District. In addition, without proper approval, invoices could be processed for goods/services that were not received by the District or that were not for the lawful operation of the District. Additionally, these conditions could result in employee error for the reporting and documentation of seized property, disbursement transactions, and the accounting of funds. Further, these conditions could also affect case activity and the location of seized property.

Recommendation: OSAI recommends that management completely implement written policies and procedures for the accounting of program funds and the maintenance of files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that the Drug Asset Forfeiture Program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the process of approval and documentation of disbursements.
- Guidelines for the oversight and documentation of case file maintenance and status of forfeited and pending forfeiture inventory.

Furthermore, we recommend management identify, analyze, and manage risks. Management should also assess the quality and effectiveness of the organization's 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: The District Attorney will approve and date all disbursements from the Drug Asset Forfeiture program.

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Criteria: The GAO Standards – Section 1 – Definition of Internal Control – OV1.01 states in part:

Internal control is a process effected by an entity’s oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved.

Additionally, Section 1 – Definition of Internal Control – OV1.03 states in part

Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. Internal control serves as the first line of defense in safeguarding assets. In short, internal control helps managers achieve desired results through effective stewardship of public resources.

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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