



DISTRICT ATTORNEY DISTRICT 20

Statutory Report

For the period of July 1, 2019 through June 30, 2021

Cindy Byrd, CPA
State Auditor & Inspector

**CRAIG LADD, DISTRICT ATTORNEY
DISTRICT 20**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE PROGRAM
SUPERVISION FEE AND SUPERVISION FEE STATE REMITTANCE PROGRAMS
991 FEE AND 991 FEE STATE REMITTANCE PROGRAMS**

FOR THE PERIOD OF JULY 1, 2019 THROUGH JUNE 30, 2021

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.



May 1, 2023

Craig Ladd, District Attorney
District 20
Carter County Courthouse
Ardmore, Oklahoma 73401

Transmitted herewith is the statutory report for the District Attorney of District 20, Carter, Johnston, Love, Marshall, and Murray County, Oklahoma (the District) for the period of July 1, 2019 through June 30, 2021.

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,

A handwritten signature in blue ink that reads "Cindy Byrd".

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 manner to address criminal conduct without sending many offenders to state prisons.

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.

SUPERVISION FEE AND SUPERVISION FEE STATE REMITTANCE PROGRAMS

The district attorney supervision fee 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.

Beginning on July 1, 2019, a supervision fee state remittance account was created pursuant to 22 §991d (2) amended as follows, “Any fees collected by the district attorney shall be deposited in the General Revenue Fund of the State Treasury.” Fees collected at the district offices are deposited monthly with the county treasurer and transferred monthly for annual budgeted appropriations at the state level.

991 FEE AND 991 FEE STATE REMITTANCE PROGRAMS

The district attorney 991 fee 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

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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.

Beginning on July 1, 2019, a 991 fee state remittance account was created pursuant to 22 §991a (1)(ii) amended as follows, “ Any fees collected by the district attorney shall be deposited in the General Revenue Fund of the State Treasury. Fees collected at the district offices are deposited monthly with the county treasurer and transferred monthly for annual budgeted appropriations at the state level.



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District 20
Carter County Courthouse
Ardmore, Oklahoma 73401

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, 2019 through June 30, 2021.

Bogus Check Restitution, Supervision Fee/State Remittance and 991 Fee/State Remittance 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, received, and deposited in compliance with 28 O.S. § 153, 22 O.S. §§ 114, 991d, 991a (hh), 991f-1.1 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) and 991f-1.1, 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 and Supervision Fee/State Remittance and 991 Fee/State Remittance Programs.

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, Drug Asset Forfeiture, Supervision Fee/State Remittance and 991 Fee/State Remittance Programs 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 Carter, Johnston, Love, Marshall, or Murray 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

December 16, 2022

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2021-001 – Lack of Internal Controls and Noncompliance Over the District Attorney Drug Enforcement Fund (Drug Asset Forfeiture Program)

Condition: The District has not established an asset forfeiture holding account for the Drug Asset Forfeiture Program. The local law enforcement (seizing agency) holds all seized assets until the court orders the assets to be forfeited. Subsequent to the court order, the seizing agency deposits cash seizures with the District Attorney’s office. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the seized funds that have been forfeited.

Regarding seized assets such as vehicles and guns, the seizing agency maintains possession of the asset until the court orders the asset forfeited or returned. Upon forfeiture, the seizing agency sells the asset, and the proceeds are deposited with the District Attorney’s office. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the sale of the seized asset.

Upon inquiry of District Attorney staff and review of the drug asset forfeiture property inventories, case files and documentation of asset forfeitures for each County office, weaknesses were identified in the Drug Asset Forfeiture Program for Carter and Love counties.

Carter County

A review of the Drug Asset inventory reflected two (2) cases tested that required further documentation to determine closure:

- Case CV-2019-012 - The seized vehicle in this case was not included in the forfeiture documents. Further, the vehicle was destroyed by the seizing agency in May of 2022. As of the audit date, the case has now been documented and the District Attorney’s office has finalized the case.
- Case CV-2016-92 - A “Notice of Seizure” was filed on a 2000 Chevrolet truck, however, the case remained pending, and the vehicle was no longer in the custody of the seizing agency or the District. As of the audit date, the case has now been documented and the District Attorney’s office has finalized the case.

Love County

- Love County does not maintain an inventory list of seized assets.

Cause of Condition: The District Attorney’s office has not designed and implemented policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure seized assets are safeguarded. Further, drug asset forfeiture cases were not effectively tracked as to the disposition of seized asset property inventory and currency.

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Effect of Condition: These conditions resulted noncompliance with state statute and inaccurate accounting and reporting of seized and forfeited assets and currency for the District.

Recommendation: OSAI recommends that management adhere to 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 program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

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

Furthermore, OSAI recommends management adhere to Title 63 O.S. § 2-506 (K) and manage risks associated with drug asset seizures and forfeitures. Management should also assess the quality and effectiveness of the organization's internal control process over time and implement appropriate controls and oversight of daily transactions and recordkeeping of the program. This will ensure that management has taken the necessary steps in safeguarding the District's responsibility for asset forfeitures.

Management Response:

District Attorney: Our office will require that agencies, which seize property are required to draft and present for our signature a Petition which will be filed separately as a Civil Forfeiture action using the Case Type CV. This includes all physical property seized as well as monies seized. A log will be kept by the individual county office of any and all property seized, the case number assigned, agency assigned, and date filed, and date the court grants forfeiture. Each entry will bear the signature of the person responsible for holding the property. This log will be submitted annually to the finance manager at the Carter county location to review and sign as well. In the event the seized property is ultimately forfeited, it will be the responsibility of a representative of the district attorney's office to, as soon as practicable, provide the person who has been responsible for "holding" the seized property with notice of such forfeiture and to cause the property, if it is cash, to be deposited and disposed of as according to law. In addition, the forfeiture files will be kept attached to the companion criminal files to help ensure that money which has been seized for forfeiture will be handled as provided for by law. At least once every (6) months, the individual county office will review the status of each civil forfeiture court action to ensure that a default judgment does not need to be filed. For property forfeited which is not cash, the District Attorney's Office will work with the seizing agencies to ensure that auctions are held yearly to dispose of the forfeited property according to law. If cash, once it is deposited and disposed of according to law, documentation will be recorded and reconciled in the individual county and will be forwarded to the finance manager in Carter County to reconcile and record said transaction.

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.

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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.

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...”

O·K·L·A·H·O·M·A
S·A·I
STATE AUDITOR & INSPECTOR



Cindy Byrd, CPA | State Auditor & Inspector

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