



DISTRICT ATTORNEY DISTRICT 23

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE 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.

April 16, 2021

Allan Grubb, District Attorney
District 23
Pottawatomie County Courthouse
Shawnee, Oklahoma 74801

Transmitted herewith is the statutory report for the District Attorney of District 23, Pottawatomie and Lincoln 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



**ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020**

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.

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.

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.

**ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020**

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.

Statutory Report

Allan Grubb, District Attorney
District 23
Pottawatomie County Courthouse
Shawnee, Oklahoma 74801

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, 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, 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, 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 Program, Supervision Program, Supervision 991 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, 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 Pottawatomie or Lincoln 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

March 17, 2021

ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2020-001 – Internal Controls - Written Policies and Procedures for Bogus Check Restitution, Supervision Fee, Victim Restitution, Drug Asset Forfeiture, and Supervision Fee 991 Programs

Condition: The District Attorney’s office designed and implemented accounting policies and procedures for District staff in the prior administration; however, the current administration has not adopted these policies or customized the policies for their specific protocols to ensure all employees of the District are complying with management’s fiduciary requirements and internal controls over accounting processes.

Cause of Condition: The District Attorney’s office has not adopted written accounting policies and procedures for current administration accounting protocols.

Effect of Condition: These conditions could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, disbursement transactions, and the accounting of funds.

Recommendation: The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends that management adopt complete written policies and procedures for the accounting of program funds and the maintenance of client files including safeguarding data and disbursement 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 oversight of the daily collection process and the depositing of funds.
- Guidelines for the oversight of monthly reconciliations to the County Treasurer’s account balances.
- Guidelines for the disbursement of funds of the District are properly supported with an itemized invoice and indication that the goods and/or services were received by the District and properly approved by management.
- Guidelines for the assignment of IT software administrative rights to an individual not directly associated with the day to day accounting processes.
- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.

Management Response:

District Attorney: We have been updating our written Policies and Procedures and are adopting them in order for employees to have clear guidelines of District 23’s Bogus Check Restitution, Supervision Fee, Victim Restitution, Drug Asset Forfeiture, and Supervision Fee 991 Programs.

We are also implementing file management and access controls by designating an individual not collecting funds to be the system administrator. Further, reviews of collections, write-offs, etc., will be reviewed and initialed by the system administrator and/or district attorney.

ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020

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 – 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 2020-002 – Internal Controls Over the District Attorney Drug Asset Forfeiture Program

Condition: A review of District Attorney accounts and records, and the test of receipts, disbursements, cash balances, and the status of forfeiture case activity and assets, indicated some weaknesses in the implementation of program internal controls in certain areas, which include the following:

Pottawatomie County

- District receipts were not issued for seizure deposits in fiscal year 2020.

Lincoln County

- District ledgers were not maintained for both the Seizure (Holding) and Drug Fund accounts in fiscal year 2020.
- District receipts were not issued for seizure deposits in fiscal year 2020

Cause of Condition: The District Attorney’s office has not designed written policies for the accounting and maintenance of program activity and financial reporting to ensure that internal controls are properly implemented.

ALLAN GRUBB, DISTRICT ATTORNEY
DISTRICT 23
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020

Effect of Condition: These conditions could result in inaccurate or improper expenditures and create errors in the accounting and reporting of collections for the District.

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 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 forfeiture inventory.
- Guidelines for the oversight of the daily collection process and the depositing of funds.
- Guidelines for the maintenance of program ledgers and monthly reconciliations to the County Treasurer.

Furthermore, we recommend 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: Effective immediately, we have begun issuing written receipts for seizure deposits. Also, we have begun maintaining ledgers for both the Seizure (Holding) and Drug Fund accounts.

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

Appropriate documentation of transactions and internal control

Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.

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.

O·K·L·A·H·O·M·A
SAI
STATE AUDITOR & INSPECTOR



Cindy Byrd, CPA | State Auditor & Inspector

2300 N. Lincoln Blvd., Room 123, Oklahoma City, OK 73105 | 405.521.3495 | www.sai.ok.gov