



DISTRICT ATTORNEY DISTRICT 3

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**DAVID THOMAS, DISTRICT ATTORNEY
DISTRICT 3**

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



Cindy Byrd, CPA | State Auditor & Inspector

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

August 24, 2021

David Thomas, District Attorney
District 3
Jackson County Courthouse
Altus, Oklahoma 73521

Transmitted herewith is the statutory report for the District Attorney of District 3, Greer, Harmon, Jackson, Kiowa, and Tillman 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,

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

CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR



**DAVID THOMAS, DISTRICT ATTORNEY
DISTRICT 3
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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.

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.

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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

David Thomas, District Attorney
District 3
Jackson County Courthouse
Altus, Oklahoma 73521

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 and Drug Possession Diversion, and 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, and Drug Possession 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, 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 Greer, Harmon, Jackson, Kiowa, or Tillman 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

July 7, 2021

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2020-001 – Internal Controls Over the Disbursements Process for the Drug Asset Forfeiture Program

Condition: District 3 utilizes a central office located in Altus, Oklahoma in Jackson County. The District Attorney has three employees that process collections and disbursements for the Drug Asset Forfeiture Program. Seizures of funds are collected from offenders for Greer County, Harmon County, Jackson County, Kiowa County and Tillman County, and claims for disbursements for the program are issued through the Jackson County office.

Drug Asset Forfeiture:

- For fiscal year 2019 the claims and invoices could not be located to support the disbursements; therefore, we could not determine the five (5) disbursements tested for fiscal year 2019 were authorized expenses.

Cause of Condition: Policies and procedures have not been completely designed and implemented to ensure the disbursement process is properly reviewed, and claims and invoices are adequately documented.

Further, policies and procedures have not been designed and implemented to ensure all purchases are supported with adequate documentation, including claims and invoices to determine that the disbursements are appropriate for the District.

Effect of Condition: This condition including lack of review of documentation, 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 the District design and implement policies and procedures to ensure all purchases are supported with adequate documentation including claims and invoices, and purchases are authorized disbursements of the District.

Management Response:

District Attorney: The District staff has looked for the claims for the fiscal year 2018-2019 for the Drug Asset Forfeiture Program; however, due to recent personnel changes, we were unable to locate the claims.

Criteria: The United State 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 – 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.

Establishment and review of performance measures and indicators

Management establishes activities to monitor performance measures and indicators. These may include comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made, and appropriate actions taken. Management designs controls aimed at validating the propriety and integrity of both entity and individual performance measures and indicators

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