



DISTRICT ATTORNEY DISTRICT 7

Statutory Report

For the period of July 1, 2016 through June 30, 2019

Cindy Byrd, CPA
State Auditor & Inspector

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE PROGRAM
SUPERVISION PROGRAM
SUPERVISION 991 PROGRAM**

FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019

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.

January 14, 2021

David Prater, District Attorney
District 7
Oklahoma County Courthouse
Oklahoma City, Oklahoma 73102

Transmitted herewith is the statutory report for the District Attorney of District 7, Oklahoma County, Oklahoma (the District) for the period of July 1, 2016 through June 30, 2019.

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



**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019**

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.

Statutory Report

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District 7
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Oklahoma City, Oklahoma 73102

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, 2016 through June 30, 2019.

Bogus Check Restitution, Supervision, and 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, 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 Oklahoma 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

August 13, 2020

DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2019-001 – Internal Controls Over the Control Environment - Written Policies and Procedures for Bogus Check Restitution, Supervision Fee, Victim Restitution, and Supervision Fee 991 Programs (Repeat Finding)

Condition: While the District Attorney provided a draft of written policies and procedures, dated March 2018, for the safeguarding and reporting of program funds, testwork indicated deficiencies in the design and implementation of internal controls in certain areas, which include the following:

- As of March 2018, the District Attorney has drafted policies and procedures for the documenting and depositing fees from the Supervision Fee Program, Bogus Check Restitution Program, Victims Restitution Program and 991 Fee Program. The policies and procedures protocol did not address computer controls, including administrative rights and initiating mitigating controls to prevent or timely detect errors or unauthorized transactions.

Additionally, the disbursement of program funds, procedures relating to identifying unclaimed restitution, and oversight of monthly account ledger maintenance is not addressed in the draft of the policies and procedures.

Cause of Condition: Although, the District Attorney’s office has established some policies dated March 2018, formal policies have not been fully implemented to ensure remittance of unclaimed victim restitution, proper approval of disbursements, and goods/services are properly received by the District.

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 District’s disbursement of funds are evidenced by employee initials or signatures and dated to indicate that the goods and/or services were received by the District and the invoice is approved for payment.
- 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.

DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019

- Guidelines for the disposition of monies in accounts when a merchant/victim cannot be located.

Management Response:

District Attorney:

1. Protocols exist and are scrupulously followed requiring verification that goods and/or services are received prior to issuance of payment. Depending upon from which account payment is made, either the Purchasing Agent or the Finance Officer verifies that written documentation exists for the receipt of goods and/or services prior to submitting the invoice and payment instrument to the District Attorney or First Assistant District Attorney for written or electronic approval. No instances of payment for goods or services not received have been identified by either the State Auditor and Inspector's Office or the District Attorney's Office.

2. In response to the audit, administrative rights to the software accounting module will be limited to employees in a supervisory capacity.

3. In response to the audit, supervisory approval will be required for deletions, voids, adjustments, and write-offs. Additionally, the software maintains an audit trail of user activity.

4. On March 7, 2019, the District Attorney's Office transferred \$131,508.02 in unclaimed restitution to the Oklahoma Victims Compensation Fund pursuant to 21 O.S.2011 § 142.18(F). Development of a process to regularly and accurately identify restitution that remains unclaimed for the statutory three (3) year time period triggering transfer to the Victims Compensation Fund is ongoing.

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

OV2.23-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.

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019**

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 2019-002 – Segregation of Duties Over the Bogus Check Restitution, Supervision Fee, 991 Fee, and Drug Asset Forfeiture Programs

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

- A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution, Supervision Fee, 991 Fee, and Drug Asset Forfeiture Programs. One employee prepares and issues disbursements, prepares deposits, maintains ledgers, and reconciles monthly to the County Treasurer’s accounting records. There is no indication of an independent review of the monthly reconciliations to ensure the accuracy and completeness of amounts reconciled to the County Treasurer.

Cause of Condition: Policies and procedures have not been fully implemented to properly separate key accounting functions within the District’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: 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 is able to perform all accounting functions. In the event that 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 separating key processes and/or critical functions of the office and having evidence of management review and approval of accounting functions.

**DAVID PRATER, DISTRICT ATTORNEY
DISTRICT 7
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019**

Management Response:

District Attorney: Segregation of duties exists to the extent possible with current staffing and funding levels. For example, the Financial Officer who performs reconciliations does not receive funds from outside individuals or agencies nor does he disperse funds to victims. In the case of restitution and bogus check restitution, employees in the Financial Services Division (FSD) receive funds from defendants and prepare the financial instrument for payment to the victim or to the appropriate fund. FSD employees then forward this to the District Attorney or First Assistant District Attorney for written approval. Once approved, the FSD employee sends payment to the victim. The Financial Officer deposits any checks for fees associated with restitution or bogus check restitution and 991 fees into the appropriate District Attorney's Office account only after those transfer instruments have been prepared by the FSD employee and have been approved by the District Attorney or First Assistant District Attorney.

In the case of forfeitures, the assistant district attorney who prosecutes drug asset forfeitures prepares a memorandum to the Financial Officer requesting the transfer or disbursement of funds once the forfeiture becomes final. The Financial Officer prepares the financial instrument to accomplish this transfer or disbursement along with the assistant district attorney's memorandum and forwards both for written approval to the District Attorney or First Assistant District Attorney. The assistant district attorney who submits the written request for transfer or disbursement of drug asset forfeiture funds is in no way associated with the collection, disbursement, or deposit of restitution, bogus check restitution, or 991 fees.

Criteria: The GAO Standards – Principal 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, The GAO Standards – Principal 10 – Design Control Activities – 10.14 states:

Segregation of Duties

If segregation of duties is not practical within 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.

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S·A·I
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