



# DISTRICT ATTORNEY DISTRICT 11

## Statutory Report

For the Period of July 1, 2015 through June 30, 2017

**Cindy Byrd, CPA**  
State Auditor & Inspector

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11**

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

**FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

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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](http://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 30, 2019

Kevin Buchanan, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

Transmitted herewith is the statutory report for the District Attorney of District 11, Washington and Nowata Counties, Oklahoma (the District) for the period of July 1, 2015 through June 30, 2017.

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



**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

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**TABLE OF CONTENTS**

Introductory Information .....	ii
Statutory Report of State Auditor and Inspector .....	1
Schedule of Findings and Responses .....	3

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

---

**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 bogus check program has been an effective way to address the economic problem caused by bogus checks. The program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.

**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. When 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.

**DISTRICT ATTORNEY DRUG ASSET FORFEITURE PROGRAM**

Most district attorneys in the state have a Drug Asset Forfeiture Fund. 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

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

---

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.

Asset forfeiture is an effective law enforcement tool used by local district attorneys to deprive criminals of their ill-gotten gains by seizing the proceeds of criminal activity and property used to facilitate crime. The proceeds of seized, forfeited assets make a substantial contribution to the investigation and prosecution of drug related offenses.

## Statutory Report

Kevin Buchanan, District Attorney  
District 11  
Washington County Courthouse  
Bartlesville, Oklahoma 74003

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, 2015 through June 30, 2017.

### 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 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 all accounts with the County Treasurer's ledgers.
- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council that shows total deposits and total disbursements for the Bogus Check Restitution Program, the 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 due notice at 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 if the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits, 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 Washington or Nowata 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 the County Officials. However, this report is a matter of public record and its distribution is not limited.



CINDY BYRD, CPA  
OKLAHOMA STATE AUDITOR & INSPECTOR

October 16, 2018

KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2017-001 – Segregation of Duties – Bogus Check Restitution, Supervision Fee, Supervision 991 Fee (Prosecution Reimbursement), and Drug Asset Forfeiture Programs (Repeat Finding)**

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

**Washington County**

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution Program (Merchant Restitution and District Attorney Fee Accounts). The same employee who receives and enters payments can prepare and deliver deposits to the County Treasurer without an independent review for accuracy.

In addition, one employee prepares, signs, and issues vouchers, maintains ledgers, reconciles monthly to the County Treasurer and prepares the annual reports. No one independent of the preparer reviews the monthly reconciliations and annual report for accuracy.

**Nowata County**

A lack of segregation of duties exists in the procedural process of the Drug Asset Forfeiture (DA Trust Fund and Drug Accounts), Supervision Fee, and 991 Fee (Prosecution Reimbursement) Programs. One employee received payments, prepared and delivered deposits, prepared disbursements, authorized vouchers, maintained ledgers, performed monthly reconciliations to the County Treasurer, and prepared the annual report. There was no indication that someone independent of the preparer reviews deposits, disbursements, monthly reconciliations, or annual reports for accuracy.

**Cause of Condition:** Policies and procedures have not been designed and implemented to properly segregate key accounting functions within District Attorney 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 oversight 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 separating

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

---

key processes and /or critical functions of the office and having management review and approval of accounting functions within District Attorney programs.

**Management Response:**

**District Attorney:** A step in the process has been implemented so that our Financial Officer will review the reconciliations monthly with the Bogus Check coordinator and review the annual reports for accuracy. The Financial Officer will sign that goods\services have been received. Currently, all checks prepared on this account must be registered with the County Treasurer's office and signed by them as well as the Bogus Check Coordinator. All PO's are signed by the District Attorney.

Regarding a lack of segregation duties existing in the procedural process of the Drug Asset Forfeiture (DA Trust Fund and Drug Accounts), Supervision Fee, and 991 Fee (Prosecution Reimbursement) Programs, the secretary at the Nowata Office will prepare PO's and the Nowata ADA will sign the request and sign the checks. Our Washington County Financial Officer will review the monthly reconciliations and the annual reports for accuracy. All checks currently issued from these accounts must be registered with the Nowata County Treasurer's office and signed by them as well. The policy and procedure of no cash payment may be accepted by the DA's office has been explained to the Nowata office employees and will be expected to be implemented.

**Criteria:** Demonstration of accountability and stewardship are goals used in evaluating management's accounting for funds. A basic component of adequate internal controls is the segregation of duties so that one individual cannot perpetuate and conceal errors and irregularities in the normal course of his/her duties. To help ensure a proper accounting of funds and strong internal controls, the duties of receiving, receipting, recording, and depositing cash and checks should be separated among employees.

**Finding-2017-002 – Internal Control Environment - Written Policies and Procedures for Information Technology Systems, Bogus Check Restitution, Supervision Fee, Supervision Fee 991, and Drug Asset Forfeiture Programs (Repeat Finding)**

**Condition:** As part of our review of District Attorney accounts and records, tests of receipts, disbursements, cash balances, and information technology controls were performed. While the District Attorney has provided a written draft of policies and procedures for the safeguarding and reporting of program funds, we noted deficiencies of internal controls in certain areas, which include the following:

**Information Technology (IT)**

- Employees can void receipts and make adjustments to defendant payments and case file financial information without any oversight.
- Employees do not log out of their computer when away from their workstation nor does their computer time-out during periods of inactivity.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

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**Bogus Check Restitution Program**

**Washington County**

- Daily deposits were not performed. We noted three (3) to nine (9) days lapsed before payments were deposited with the County Treasurer.

**Supervision Fee Program**

**Washington County**

- Three (3) of the ten (10) disbursements tested did not have any indication that goods and/or services had been received.
- Daily deposits were not performed. We noted four (4) to fourteen (14) days lapsed before payments were deposited with the County Treasurer.

**Nowata County**

- Daily deposits were not performed. We noted six (6) to thirteen (13) days lapsed before payments were deposited with the County Treasurer.
- During our review of Supervision Fees, we noted cash payments were accepted contrary to District policy.
- Five (5) of the ten (10) disbursements tested were not properly approved by management.
- Two (2) of the ten (10) disbursements tested did not have supporting documentation attached to validate the expense.
- Four (4) of the ten (10) disbursements tested did not have indication that goods and/or services had been received.

**Supervision 991 Fee (Prosecution Reimbursement) Program**

**Washington County**

- Daily deposits were not performed. We noted three (3) to fourteen (14) days lapsed before payments were deposited with the County Treasurer.

**Nowata County**

- Daily deposits were not performed. We noted five (5) to twenty (20) days lapsed before payments were deposited with the County Treasurer.
- Six (6) of the ten (10) disbursements tested were not properly approved by management.
- Six (6) of the ten (10) disbursements tested did not have supporting documentation attached to validate the expense.

KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017

---

**Drug Asset Forfeiture Program**

**Washington County**

- Pre-numbered receipts were not issued for seized currency by the District.

**Nowata County**

- Pre-numbered receipts were not issued for seized currency by the District.

**Cause of Condition:** Although, the District Attorney's office has established some policies, formal policies have not been fully implemented to safeguard against unauthorized access to computer data, to ensure payments are properly receipted and deposited in a timely manner, and to ensure disbursements are properly approved by management, have supporting documentation, and goods and/or services are properly received by the District.

**Effect of Condition:** These conditions could result in unauthorized access to financial information and inaccurate or improper expenditures for the District. These conditions could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, expenditure transactions, and the accounting of funds. Also, without proper receiving information, invoices could be processed for goods/services that were not received by the District or that were not appropriate use of District programs.

**Recommendation:** OSAI recommends management adopt complete, written policies and procedures for the accounting of program funds and the maintenance of client files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and to ensure compliance with applicable state statutes. Such policies should include the following:

- Guidelines for the oversight of the daily collection process and the depositing of funds.
- All expenditures of the District should be properly supported with indication that the goods/services were received by the District and the invoice is ready to be paid. Further, all expenditures should be properly authorized by management.
- A time-out security measure should be implemented for computers to safeguard against unauthorized access when an employee is away from their workstation.
- Guidelines for the administrative approval and review of IT software deletions, voids and write-off activity.

Furthermore, OSAI recommends 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.

**KEVIN BUCHANAN, DISTRICT ATTORNEY  
DISTRICT 11  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2017**

---

**Management Response:**

**District Attorney:** Regarding the employees' ability to void or adjust payments and financial ledgers without oversight, our Financial Officer will review the Financial Adjustment Report and the Voided Payments Report from District software at least quarterly to monitor voids and adjustments. Any unusual activity will be reported immediately to the District Attorney.

The DAC is addressing the issue of employees who do not log out of their computer when away from their station by implementing a mandatory time-out security safeguard.

Regarding daily deposits not performed by the Bogus Check Restitution Program, Supervision Programs, Prosecution Reimbursement Programs; in both counties policies have been updated and will be reviewed with the District Attorney and with the employees who manage those programs. We have updated our purchase claim form and implemented policy changes and procedures to ensure all expenditures for the District to be properly supported with documentation that indicates that the goods/services were received by the District and properly authorized by management.

Regarding the Drug Asset Forfeiture Program, this office has implemented a safeguard process to protect any issue handling the cash sought to be forfeited by requiring the requesting agency to go to the Treasurer's office with my employee and deposit the cash together, each receiving a receipt. Insistence that we purchase a sequentially numbered receipt book to give the requesting agency is solely an ease of auditing requirement. There is no finding that I see that the current procedure is inadequate or will be fixed by a receipt book. Washington County and Nowata County will implement using pre-numbered receipts for seized currency by the District solely to stop having this issue reported again.

**Auditor Response:** OSAI recommends the District Attorney's office issue pre-numbered receipts for currency obtained during the seizure of funds for the Drug Asset forfeiture Program as an internal control and to provide documentation of currency collected in each office. Evidence relating to the signature or initials of the employee who collected the funds, the date the funds were collected, and the dollar amount of the collection as noted on pre-numbered receipts provides a level of assurance that currency collected is properly safeguarded and oversight of the collection process is documented.

**Criteria:** Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented to ensure compliance with laws and regulations, to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions and to safeguard data.

O·K·L·A·H·O·M·A  
S·A·I  
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