



DISTRICT ATTORNEY DISTRICT 1

Statutory Report

For the Period of July 1, 2016 through June 30, 2018

Cindy Byrd, CPA
State Auditor & Inspector

**JAMES M. BORING, DISTRICT ATTORNEY
DISTRICT 1**

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

FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018

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 8, 2019

James M. Boring, District Attorney
District 1
Texas County Courthouse
Guymon, Oklahoma 73942

Transmitted herewith is the statutory report for the District Attorney of District 1, Beaver, Cimarron, Harper and Texas County, Oklahoma (the District) for the period of July 1, 2016 through June 30, 2018.

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



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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 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.

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.

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

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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 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.

DISTRICT ATTORNEY DRUG POSSESSION DIVERSION PROGRAM

The district attorney drug possession diversion program was created by the Oklahoma Legislature in 2016 as an alternative from prosecution of a charge for possession of a controlled dangerous substance, possession of drug paraphernalia, to be determined by the district attorney. The defendant shall pay to the district attorney a fee equal to the amount which would have been assessed as court costs upon filing of the case in district court. Unless the agreement between the defendant and the district attorney provides otherwise, the defendant shall be supervised in the community by the district attorney or by a private supervision program pursuant to the provisions of Oklahoma Statutes.

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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, 2016 through June 30, 2018.

Bogus Check, 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 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 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, 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 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.

Drug Possession Diversion Program:

- There are no procedures in place regarding the Drug Possession Diversion Program at this time; therefore, no determination of the Program's records will be made.

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 Beaver, Cimarron, Harper or Texas 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

November 28, 2018

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2018-001 – Internal Controls Over the Collection and Disbursement Processes (Repeat Finding)

Condition: The Beaver, Cimarron and Harper County branch offices of District Attorney 1 (the District) have one full-time support staff employee and one part-time Assistant District Attorney who reviews and approves the accounting functions performed by the support staff employee. In the absence of the Assistant District Attorney, accounting functions are performed without prior review and approval.

The duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions are not adequately segregated within the County branch offices of the District.

Cimarron County

The Cimarron County branch office staff employee receives cash payments and issues handwritten receipts. Although the District has been in the process of utilization of a software system, training has not been initiated with the Cimarron County staff employee and conversion to the software system has not been implemented.

Cause of Condition: Policies and procedures have not been designed and implemented to adequately segregate the duties in the County branch offices of the District in the absence of the Assistant District Attorney and the utilization of the software system has not been implemented due to lack of training.

Effect of Condition: A single person having responsibility for more than one area of accounting functions and absence of an integrated computer system for each branch office 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’s Office (OSAI) recommends that management be aware of these conditions. A 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. In the event that a 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 and implementation of an integrated computer system. Compensating controls would include separating key processes and/or critical functions within the office and having management review and approve accounting functions.

Management Response:

District Attorney: The District Attorney chose not to respond to this finding.

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. An important aspect of internal controls is the safeguarding of assets. Internal controls over safeguarding of

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assets constitute a process, affected by management and other personnel, designed to provide reasonable assurance regarding prevention or timely detection of unauthorized transactions and safeguarding assets from misappropriation.

Finding 2018-002 – Internal Controls Over the Preparation and Review of Annual Reports

Condition: The review of District Attorney Programs determined the amounts on Annual Reports do not reconcile with the County Treasurer’s balances and were not accurately reported to the District Attorneys Council (DAC). The review of Annual Reports reflected the following discrepancies were noted:

- A complete reconciliation of the Supervision and Supervision 991 Annual Reports for FY 2017 and FY 2018 could not be determined due to those fees being deposited into the same “Probation” fund.
- The FY 2017 beginning balance and ending balance on the Bogus Check Restitution Annual Report submitted to DAC did not agree to the total of the combined county offices beginning and ending balances submitted.
- The FY 2017 Bogus Check Restitution Annual Report for Harper County reflected the “amount collected for victims” was overstated by \$729.85.
- Handwritten modifications made to Annual Reports submitted to DAC were not explained nor was there evidence of the employee’s signature indicating who made the change.
- The Restitution and Diversion Annual Report submitted for FY 2017 and FY 2018 did not reflect the receipts and disbursements for the branch offices of Beaver, Cimarron or Harper County.

Cause of Condition: Although evidence of a review of the Annual Reports was noted, policies and procedures have not been fully designed and implemented to ensure Annual Reports are complete and accurate.

Effect of Condition: These conditions resulted in inaccurate Annual Reports of collections and account balances submitted to DAC for program fund activity.

Recommendation: OSAI recommends that management adopt written policies and procedures for the accounting and reporting of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and the program is properly accounted for and is in compliance with applicable laws and regulations. Such policies and procedures should include the following:

- Guidelines for the oversight of monthly reconciliations to the County Treasurer’s account balances.
- Guidelines for accurate reporting of Annual Reports and the review process.

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- Guidelines for modifications made to Annual Reports.

Management Response:

District Attorney: The District Attorney chose not to respond to this finding.

Criteria: Basic components of effective internal controls include an independent review of financial reports to ensure accuracy of the information. Written policies and procedures for performing essential duties should be adequately documented to ensure employees understand their responsibilities and to ensure reliability of financial reporting of the District.

O·K·L·A·H·O·M·A
S·A·I
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