



# DISTRICT ATTORNEY DISTRICT 13

## Statutory Report

For the period of July 1, 2017 through June 30, 2019

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

**KENNY WRIGHT, DISTRICT ATTORNEY  
DISTRICT 13**

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

**FOR THE PERIOD OF JULY 1, 2017 THROUGH JUNE 30, 2019**

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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.

June 22, 2020

Kenny Wright, District Attorney  
District 13  
Ottawa County Courthouse  
Miami, Oklahoma 74354

Transmitted herewith is the statutory report for the District Attorney of District 13, Ottawa and Delaware County, Oklahoma (the District) for the period of July 1, 2017 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



**KENNY WRIGHT, DISTRICT ATTORNEY  
DISTRICT 13  
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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.

**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 13  
Ottawa County Courthouse  
Miami, Oklahoma 74354

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, 2017 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), 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, 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, 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 Ottawa or Delaware 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

January 21, 2020

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2019-001 – Internal Controls Over Segregation of Duties – Drug Asset Forfeiture, Bogus Check Restitution, Supervisor 991 Fee, and Supervision Fee Programs (Repeat Finding)**

**Condition:** Upon inquiry of 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:

**Ottawa County**

A lack of segregation of duties exists in the procedural process of the Drug Asset Forfeiture Program (Drug Task Force Account). One employee prepares and issues checks for disbursements, including signing and registering the checks with the County Treasurer. In addition, the same employee maintains ledgers and reconciles monthly to the County Treasurer's accounting records. There is no indication of an independent review of monthly reconciliations to ensure the accuracy and completeness of the amounts reconciled.

A lack of segregation of duties exists in the procedural process of the Bogus Check Restitution Program (Merchant account). One employee receives payments, prepares and delivers deposits to the County Treasurer. No one other than the preparer reviews the daily deposits for accuracy and/or completeness.

In addition, one employee prepares, and issues checks for disbursements, including signing and registering the checks with the County Treasurer for the Bogus Check Fee Restitution account. The same employee maintains ledgers and reconciles monthly to the County Treasurer's accounting records. There is no indication of an independent review of monthly reconciliations to ensure the accuracy and completeness of the amounts reconciled.

A lack of segregation of duties exists in the procedural process of the Supervision 991 Fee and Supervision Fee Programs. One employee receives payments, prepares and delivers deposits to the County Treasurer. No one other than the preparer reviews the daily deposits for accuracy and/or completeness.

**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:** 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 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



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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.

**Management Response:**

**District Attorney:** We will continue to attempt to improve the segregation of financial duties in the District. Specifically, with respect to the Drug Task Force Account, I will start signing checks instead of allowing my Finance Coordinator to sign them. Additionally, I plan to review the account reconciliation at least quarterly. For the bogus check accounts, supervision accounts, and 991 accounts, I plan to have the Finance Coordinator review the deposits in Ottawa County and take the deposit to the Treasurer. In Delaware County, I will have another employee perform the same functions that the Finance Coordinator is performing in Miami. I will also review the reconciliations for these accounts on a quarterly basis.

**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 – Principle 10 – Design and 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 – Principle 10 – Design Control Activities – 10.14 states in part:

*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.

Additionally, Principle 10 - Segregation of Duties states:

10.14 – 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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**Finding 2019-002 – Internal Controls Over Information Technology and Noncompliance of the Drug Asset Forfeiture Program (Repeat Finding)**

**Condition:** As part of the review of District Attorney accounts and records, tests of receipts, disbursements, and cash balances were performed. The District Attorney has established written policies and procedures but has not fully designed or implemented the controls for the safeguarding and reporting of program funds. Therefore, deficiencies were noted in certain areas, which include the following:

*Information*

**District-wide**

- District software write-off/adjustment reports are not periodically reviewed for unusual activity.

**Ottawa County**

- Employees do not lock their computer when away from their station, nor does their computer time-out during periods of inactivity.

***Drug Asset Forfeiture Program***

**Delaware County**

- A perpetual forfeiture case summarization and/or inventory listing of seized and/or forfeited property is not properly maintained.

**Cause of Condition:** The District Attorney's office is not adhering to its formal policies for the periodic review and approval of payment adjustments and/or write-off processes, nor compliance with state statute to ensure the status of civil forfeiture cases and the disposition of property inventory are properly documented and maintained.

**Effect of Condition:** These conditions resulted in noncompliance with state statute and could result in employee error for the reporting and documentation of the collection of payments, defendant file maintenance, restitution payments, and the accounting of funds. Also, these conditions could affect case activity and the location and/or disposition of seized/forfeited property.

**Recommendation:** OSAI recommends that management fully implement written policies and procedures for the accounting of program funds, maintenance of client files and documentation of forfeiture cases and property. Implementing these policies would ensure all employees are aware of their duties and responsibilities and that each program is properly accounted for and ensure compliance with applicable laws and regulations.

Furthermore, we recommend management identify, analyze and manage risks. Management should also assess the quality and effectiveness of the District's internal control process over time and implement appropriate controls and oversight of each program's daily transactions and recordkeeping to ensure that management has taken the necessary steps in safeguarding the District's assets.

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**Management Response:**

**District Attorney:**

Information Technology

I will review the write-off/adjustment reports for unusual activity on a quarterly basis. All District computers now time-out after five minutes of inactivity.

Drug Asset Forfeiture Program

I will ensure that Delaware County maintains a perpetual log for forfeiture case summarization, status, and inventory of seized and forfeited property.

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

*Appropriate documentation of transactions and internal control*

Management clearly documents internal controls 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.

In addition, Title 63 O.S. § 2-506 K states in part, “Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section...”

O·K·L·A·H·O·M·A  
S·A·I  
STATE AUDITOR & INSPECTOR



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

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