



DISTRICT ATTORNEY DISTRICT 16

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
SUPERVISION 991 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.

September 9, 2019

Jeff Smith, District Attorney
District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

Transmitted herewith is the statutory report for the District Attorney of District 16, LeFlore and Latimer 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.

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

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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.

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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, 2018.

Bogus Check, 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 LeFlore or Latimer 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

July 16, 2019

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2018-001 – Segregation of Duties – Bogus Check Restitution, Supervision Fee, 991 Fee, and Drug Asset Forfeiture Programs (Repeat Finding)

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

LeFlore County

A lack of segregation of duties continues to exist in the procedural process of the Bogus Check Restitution (Merchant and DA Fees), Supervision Fee, and 991 Fee Programs. One employee receives and enters payments, prepares and delivers the deposit, prepares and issues disbursements, maintains subsidiary ledgers, performs monthly reconciliations, and prepares the annual report. No one other than the preparer reviews the deposits or reconciliations to ensure accuracy of the amounts reconciled.

Latimer County

A lack of segregation of duties exists in the procedural process of the Drug Asset Forfeiture Program (DA Controlled Substance and DA Seizure). One employee receives payments, prepares and delivers the deposit, prepares and issues disbursements, and maintains subsidiary ledgers. No one independent of these processes reviews account activity for completeness and accuracy.

Cause of Condition: Policies and procedures have not been fully designed and adequately implemented to properly separate key accounting functions.

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 the District Attorney 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 the District Attorney’s overseeing of office operations and a periodic review of operations. OSAI recommends the District Attorney provide segregation of duties so that no one employee can 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 as follows:

The District Attorney staff should provide evidence of review and approval of accounting functions including:

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- Someone other than the preparer reviewing documents,
- Initialing and dating the review of deposits, claims, and vouchers,
- Re-performing and reviewing reconciliations, and
- Initialing and dating the review of deposit summaries, monthly reports and annual reports.

Management Response:

District Attorney: The District Attorney will initiate compensating controls that tend to separate key processes and/or critical functions of the office as follows: The District Attorney or First Assistant will review and initial all pertinent documentation for these various accounts on a monthly basis.

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 taking funds and issuing receipts, preparing and making deposits, maintaining ledgers, reconciling with the Treasurer, and preparing annual reports should be segregated.

Finding 2018-002 – Internal Control Environment – Written Policies and Procedures for Information Technology and Daily Deposits (Repeat Finding)

Condition: As part of our review of the District Attorney's accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney's office has established written policies and procedures for internal controls and the safeguarding and reporting of program funds. However, deficiencies were noted in certain areas, which include the following:

Information Technology

- Employees share the same password and log-in for the District's software system.
- IT software void, deletion and/or write-off reports are not reviewed periodically for unusual activity.
- A time out security measure has not been assigned in the system nor are employees required to log out of the system when leaving their workstation.

Bogus Check Restitution Program

LeFlore County

- The test of deposits for fifteen (15) days reflected two (2) to three (3) days had lapsed before payments were deposited with the County Treasurer, resulting in funds not being deposited in a timely manner.

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Supervision and 991 Fee Programs

LeFlore County

- The test of deposits for fifteen (15) days reflected two (2) to four (4) days had lapsed before payments were deposited with the County Treasurer, resulting in funds not being deposited in a timely manner.

Cause of Condition: The District Attorney's office policies and procedures are not being implemented by personnel to ensure that all payments received by the District are processed, documented, and deposited in a timely manner and to safeguard against unauthorized access to computer data, defendant file maintenance and financial misappropriation of funds.

Effect of Condition: These conditions could result in unauthorized access to financial information and employee error in the reporting and documentation of the collection of payments and the accounting of funds.

Recommendation: OSAI recommends that the District Attorney's staff adopt and implement 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 is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the oversight of the daily collection process and the depositing of funds with the County Treasurer.
- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.
- Guidelines for system security and system inactivity management.

Furthermore, we recommend the District Attorney identify, analyze, and manage risks. The District Attorney 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 the District Attorney and staff have taken the necessary steps in safeguarding the District assets.

Management Response:

District Attorney: The District Attorney will begin to assess the quality and effectiveness of this District's internal control process and implement appropriate controls and oversight of each program's daily transactions and recordkeeping as he sees fit.

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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 timely depositing of funds and computer system security measures to safeguard information. To help ensure a proper accounting of funds and strong internal controls regarding information technology safeguards and timely depositing of funds with the County Treasurer should be implemented.

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



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