



DISTRICT ATTORNEY DISTRICT 19

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19**

**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.



Cindy Byrd, CPA | State Auditor & Inspector

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April 3, 2019

Emily Redman, District Attorney
District 19
Bryan County Courthouse
Durant, Oklahoma 74701

Transmitted herewith is the statutory report for the District Attorney of District 19, Bryan, Atoka, and Coal 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,

A handwritten signature in blue ink that reads "Cindy Byrd".

CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR



**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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 verifying

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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.

Statutory Report

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District 19
Bryan County Courthouse
Durant, Oklahoma 74701

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.

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 Bryan, Atoka, or Coal 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

January 10, 2019

EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2018-001 – Internal Controls Over District Attorney Drug Asset Forfeiture, Bogus Check Restitution, Supervision Fee, and Supervision Fee 991 Programs (Repeat Finding)

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

Bryan County

Drug Asset Forfeiture, Bogus Check Restitution (Bogus Check Restitution and District Attorney Fee Accounts), Supervision Fee and Supervision 991 Fee Programs

- One employee prepares and maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no indication that someone independent of the preparer reviews the District ledger, annual report, or monthly reconciliations for accuracy.

Atoka County

Drug Asset Forfeiture, Supervision Fee, and Supervision 991 Fee Programs

- One employee prepares and maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no indication that someone independent of the preparer reviews the ledgers, annual report, or monthly reconciliations for accuracy.

Coal County

Drug Asset Forfeiture Program

- One employee prepares the annual reports. There is no indication that someone independent of the preparer reviews the annual report for accuracy.

Supervision Fee and Supervision 991 Fee Programs

- One employee receives payments, issues receipts, prepares and delivers deposits. There is no independent review of the deposit process. In addition, the financial coordinator prepares and maintains ledgers, reconciles monthly to the County Treasurer, and prepares the annual reports. There is no indication that someone independent of the preparer reviews the ledger, annual report, or monthly reconciliations for accuracy.

Cause of Condition: Policies and procedures have not been designed and implemented to properly segregate key accounting functions within the District Attorney’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,

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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 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 management review and approval of accounting functions.

Management Response:

District Attorney: The Office of the District Attorney recognizes the importance of the segregation of duties in order to promote integrity in accounting procedures. Policies and procedures are in place to promote as much segregation of duties as is possible in our small offices. Based on the recommendation of the Oklahoma State Auditor and Inspector, the District Attorney will make sure that the Financial Coordinator reviews, verifies and approves the work of each employee involved in the accounting functions of our office. Further, the District Attorney will meet with the Financial Coordinator monthly to review this process and to address any concerns or issues with staff.

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

Finding 2018-002 – Internal Controls Over Written Policies and Procedures for Information Technology, Bogus Check Restitution, Supervision Fee, Supervision 991 Fee, and Victim Restitution Programs (Repeat Finding)

Condition: As part of the review of District Attorney accounts and records, we tested receipts, disbursements, and cash balances. The District Attorney has written policies and procedures and/or has designed internal controls for the safeguarding and reporting of program funds. However, we did note deficiencies in certain areas, which include the following:

EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018

Information Technology

Atoka County

- One employee can delete or void payments without approval. Void, deletion, and write-off reports are not periodically reviewed for unusual activity.

Coal County

- One employee can delete or void payments without approval. Void, deletion, and write-off reports are not periodically reviewed for unusual activity.

Bogus Check Restitution Program

Bryan County

- Two (2) of the ten (10) disbursements tested were not properly approved by management.

Supervision 991 Fee Program

Atoka County

- Case files indicated one (1) instance in which a defendant's case was assessed \$480.00; however, the defendant should have been assessed \$960.00 for a two-year deferred sentence. As a result, the District under-assessed and under-collected the Supervision 991 Fee in the amount of \$480.00.

Victim Restitution Program

Atoka County

- Deposits were not performed daily. The test of receipts issued to deposits made, indicated instances where seven (7) to twenty-nine (29) days had lapsed before payments were deposited.

Cause of Condition: The District Attorney's office has not fully implemented District-wide procedures to safeguard against unauthorized access to computer data and to ensure collections, disbursements, and financial reporting for the Bogus Check Restitution, Supervision Fee, Supervision 991 Fee, and Victim Restitution Program accounts are properly approved and payments are processed in a timely manner.

Effect of Condition: These conditions could result in unauthorized access to financial information, employee error for the reporting and documentation of the collection of payments, improper disbursements, and inaccurate accounting of fund activity for the District. In addition, without proper approval, invoices could be processed for goods/services that were not received by the District or that were not for lawful purposes.

Recommendation: OSAI recommends that management fully implement the written policies and procedures of the office for the safeguarding program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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.
- Guidelines for the process of approval and documentation of account disbursements.
- Guidelines for the administrative approval and review of IT software deletions, voids and write-off activity.

Furthermore, we recommend 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.

Management Response:

District Attorney: The office of the District Attorney recognizes the importance of establishing a strong policy regarding the financial operations of the office. The District Attorney will be reviewing our policy and will take the recommendations of the OSAI into consideration, in amending the policies where needed. The District Attorney and Financial Coordinator will also strive to meet with staff more often to ensure that they understand the importance of following policies and procedures. It should be noted that the District Attorney has addressed the findings outlined by the OSAI because of staff violating existing office policy.

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.

Finding 2018-003 – Internal Controls Over Written Policies and Procedures for District Attorney Drug Asset Forfeiture Program and Noncompliance Over Forfeited Inventories

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

Bryan County

- The District does not maintain a true and accurate inventory for all seized property and forfeited property for the County.

Atoka County

- The District does not maintain a true and accurate inventory for all seized property and forfeited property for the County.

EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018

Coal County

- The District does not maintain a true and accurate inventory for all seized property and forfeited property for the county.
- District account ledgers are not maintained independently from the County Treasurer. Therefore, monthly reconciliations are not properly performed with the County Treasurer to ensure account activity is complete and accurately reflected in County records.

Cause of Condition: The District Attorney's office has not fully implemented District-wide procedures to ensure collections, disbursements, and financial reporting for the Drug Asset account are properly documented to ensure that internal controls are being implemented. Also, the District policies are not being followed for the tracking of civil forfeiture cases and the disposition of property inventory.

Effect of Condition: The District is not properly accounting for civil forfeiture cases and the disposition of seized and forfeited property inventory in accordance with state statute. The District Attorney's office has not fully implemented District-wide formal policies for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure that internal controls are implemented.

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

- Guidelines for the oversight and documentation of case file maintenance and status of forfeited and pending forfeiture inventory.
- Guidelines for the process of documentation of account collections and disbursements.
- Guidelines for the oversight of monthly reconciliations to the County Treasurer's account balances.

OSAI further 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.

Management Response:

District Attorney: The District Attorney is in the process of reviewing current policies and procedures regarding our Drug Asset Forfeiture Program. The recommendations of OSAI are appreciated and will be taken into consideration in amending policies where needed. The District Attorney will also reiterate to staff the importance of keeping inventory lists accurate and up to date. Additionally, the District Attorney will review policy with staff, emphasizing the importance of understanding and following such.

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,

**EMILY REDMAN, DISTRICT ATTORNEY
DISTRICT 19
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions.

Furthermore, 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...”

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