



# DISTRICT ATTORNEY DISTRICT 20

## Statutory Report

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

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

**CRAIG LADD, DISTRICT ATTORNEY  
DISTRICT 20**

**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.



Cindy Byrd, CPA | State Auditor & Inspector

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June 22, 2020

Craig Ladd, District Attorney  
District 20  
Carter County Courthouse  
Ardmore, Oklahoma 73401

Transmitted herewith is the statutory report for the District Attorney of District 20, Carter, Murray, Love, Johnston, and Marshall 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,

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

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 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

Craig Ladd, District Attorney  
District 20  
Carter County Courthouse  
Ardmore, Oklahoma 73401

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

- 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 Carter, Murray, Love, Marshall, and Johnston 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 6, 2020

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2019-001 – Internal Controls Over the Timely Deposit of Funds**

**Condition:** Based on inquiry of the District Attorney staff, observation of the receipting and depositing process and a test of deposits, it was noted the District Attorney’s offices in Carter and Murray County did not always deposit collections timely in accordance with the District’s policy and procedures.

We noted the following instances of receipts not being deposited timely in our test of ten (10) deposits for each account reviewed. Deposits were made between three (3) and five (5) days after the receipt was issued.

**Carter County**

- Victim Restitution Account - Four (4) instances were noted in which funds were not deposited timely.
- Supervision Fee Account - Twelve (12) instances were noted in which funds were not deposited timely.
- Bogus Check Restitution Fee Account - Seven (7) instances were noted in which funds were not deposited timely.

**Murray County**

- Victim Restitution Account - Four (4) instances were noted in which funds were not deposited timely.
- Bogus Check Restitution Fee Account - One (1) instance was noted in which funds were not deposited timely.

**Cause of Condition:** Policies and procedures for the process of depositing collections timely have been designed but have not been completely implemented by the District.

**Effect of Condition:** This condition resulted in incomplete adherence with the District Attorney’s policies and procedures. Further, this condition 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 Office (OSAI) recommends that management adhere to written policies and procedures for the accounting of program funds, including the timely deposit of funds collected.

**Management Response:**

**District Attorney:** Deposit slips for money received by the District Attorney’s Bogus Check/Probation Supervision/ Restitution Office will be prepared every afternoon after 4:00 p.m. and then promptly reviewed by the District Attorney or an Assistant District Attorney soon thereafter. These monies will then be deposited the following business day. In addition to requiring that a staff attorney review these deposit



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slips to ensure prompt deposits of such money. A personnel change has also been made in our Bogus Check/Probation Supervision/Restitution Office in furtherance of this objective.

**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 – Section 2 – Objectives of an Entity - OV2.23 states in part:

*Compliance Objectives*

OV2.23-Management conducts activities in accordance with applicable laws and regulations. As part of specifying compliance objectives, the entity determines which laws and regulations apply to the entity. Management is expected to set objectives that incorporate these requirements. Some entities may set objectives to a higher level of performance than established by laws and regulations.

Further, GAO Standards – Principle 6 – Defined Objectives and Risk Tolerances - 6.05 states:

*Definitions of Objectives*

Management considers external requirements and internal expectations when defining objectives to enable the design of internal control. Legislators, regulators, and standard-setting bodies set external requirements by establishing the laws, regulations, and standards with which the entity is required to comply. Management identifies, understands, and incorporates these requirements into the entity’s objectives. Management sets internal expectations and requirements through the established standards of conduct, oversight structure, organizational structure, and expectations of competence as part of the control environment.

The District 20 Accounting Policies and Procedures for the Office of the District Attorney state the following:

“2. Any payment received by any employee of the District Attorney's Office including, but not limited to, restitution, supervision fees, deferred prosecution agreement fees, and drug forfeitures, must be deposited daily. In the event that a daily deposit is not feasible, then the payment must be deposited on the following business day. In Carter County, either the District Attorney, First Assistant District Attorney, the Office Manager, or the supervisor of the Bogus Check/Restitution/Supervision Office must approve all deposits with said deposits being prepared by someone other than the person writing the receipts.”

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**Finding 2019-005 – Internal Controls and Noncompliance Over the District Attorney Drug Enforcement Fund (Drug Asset Forfeiture Program)**

**Condition:** The District has not established an asset forfeiture holding account for the Drug Asset Forfeiture Program. The local law enforcement (seizing agency) holds all seized assets until the court orders the assets to be forfeited. Subsequent to the court order, the seizing agency deposits cash seizures with the District Attorney’s office. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the seized funds that have been forfeited.

Regarding seized assets such as vehicles and guns, the local law enforcement (seizing agency) maintains possession of the asset until the court orders the asset forfeited or returned. Upon forfeiture, the seizing agency sells the asset and the proceeds are deposited with the District Attorney’s office. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the sale of the seized asset.

Upon inquiry of District Attorney staff and review of the drug asset forfeiture property inventories, case files and documentation of asset forfeitures for each County office, weaknesses were identified in the Drug Asset Forfeiture Program for Carter, Murray, Johnston, and Love counties.

**Murray County**

A test of ten (10) case files reflected the following exceptions:

- Case CV-2019-00012 included seizure of currency in the amount of \$377.00. The currency was ordered forfeited on October 30, 2019; however, at the date of fieldwork, the funds have not been deposited in the District Attorney’s Drug Asset Forfeiture account. Additionally, the seizing agency (Sulphur Police Department) could not confirm the money was in possession of the department as of the date of fieldwork.
- Case CV-2017-00048 included seizure of currency in the amount of \$253.00. The case was dismissed November 17, 2017, the Davis Police Department was not notified of dismissal, therefore the department has retained possession of the funds.

**Johnston County**

A test of five (5) case files reflected the following exceptions:

- Case CV-2017-00038 included the seizure of currency in the amount of \$440.00. The currency was ordered forfeited on May 3, 2018; however, the funds were not timely processed for forfeiture. Upon the auditor’s review of the case on November 18, 2019 the seizing agency (Tishomingo Police Department) deposited the money in the Johnston County District Attorney’s Drug Asset Forfeiture account.
- Case CV-2019-00008 included the seizure of currency in the amount of \$1,033.00. The currency was ordered forfeited on July 10, 2019; however, at the date of fieldwork, the seizing agency (Oklahoma Department of Public Safety, OHP) had not distributed a percentage of the seized and forfeited funds to the District Attorney’s Office.

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**Love County**

A test of eight (8) case file reflected the following exception:

- Case CV-2018-00033, included the seizure of currency in the amount of \$7,400.00. The currency was forfeited on April 16, 2019; however, the funds were not timely processed for forfeiture. Upon the auditor's review of the case on November 25, 2019 the seizing agency (Chickasaw Nation Lighthouse Police) deposited the money in the Love County District Attorney's Drug Asset forfeiture account.

**Cause of Condition:** The District Attorney's office has not designed and implemented policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure seized assets are safeguarded. Further, drug asset forfeiture cases were not effectively tracked as to the disposition of seized asset property inventory and currency.

**Effect of Condition:** These conditions resulted noncompliance with state statute and inaccurate accounting and reporting of seized and forfeited assets and currency for the District.

**Recommendation:** OSAI recommends that management adhere to 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 asset forfeiture inventory.

Furthermore, OSAI recommends management adhere to Title 63 O.S. § 2-506 and manage risks associated with drug asset seizures and forfeitures. Management should also assess the quality and effectiveness of the organization's internal control process over time and implement appropriate controls and oversight of daily transactions and recordkeeping of the program. This will ensure that management has taken the necessary steps in safeguarding the District's responsibility for asset forfeitures.

**Management Response:**

**District Attorney:** Our office will now require that agencies, which seize property for forfeiture and request that a Petition for Forfeiture be filed by our office, present a receipt which sets forth in detail that nature of property being held for forfeiture and bears the signature of the person responsible for holding the property. In the event the seized property is ultimately forfeited, it will be the responsibility of a representative of the district of the District Attorney's office to, as soon as practicable, provide the person who has been responsible for "holding" the seized property with notice of such forfeiture and to cause the property, if it is cash, to be deposited and disposed of as according to law. In addition, the forfeiture files will be kept attached to the companion criminal files to help ensure that money which has been sized for forfeiture will be handled as provided by law. For property forfeited which is not cash, the District Attorney's office will work with the seizing agencies to ensure that auctions are held yearly to dispose of the forfeited property according to law.

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**Criteria:** The GAO Standards – Section 2 – Objectives of an Entity - OV2.23 states in part:

*Compliance Objectives*

Management conducts activities in accordance with applicable laws and regulations. As part of specifying compliance objectives, the entity determines which laws and regulations apply to the entity. Management is expected to set objectives that incorporate these requirements.

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...”

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