



DISTRICT ATTORNEY DISTRICT 21

Statutory Report

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

Cindy Byrd, CPA
State Auditor & Inspector

**GREG MASBURN, DISTRICT ATTORNEY
DISTRICT 21**

**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.

January 16, 2020

Greg Mashburn, District Attorney
District 21
Cleveland County Courthouse
Norman, Oklahoma

Transmitted herewith is the statutory report for the District Attorney of District 21, Cleveland, Garvin, and McClain 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



**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT #21
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

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT #21
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 of

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT 21
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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.

Statutory Report

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Cleveland County Courthouse
Norman, Oklahoma

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, received, 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 Cleveland, Garvin, or McClain County.

Based on our procedures performed, we have presented our finding 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 31, 2019

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT 21
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2018-001- Internal Control Environment Over Written Policies and Procedures for Information Technology, Collections and Reconciliations

Condition: The District Attorney's office has established written policies and procedures for internal controls and the safeguarding and reporting of program funds. Upon inquiry of District Attorney staff, observation of the financial accounting system, and test of financial records, some deficiencies were noted in certain areas, which include the following:

Information Technology

- The District Attorney provides legal internships for law students. These legal interns share the same password in order to access the District Attorney's system.
- Legal interns are provided "General Permission" capability which allows them to utilize edit and input options in many areas within the system.
- System computers are set to log out after a period of inactivity; however, this setting can be overridden by an employee.

Cleveland County:

Collections

- The Collections Supervisor has the authority to adjust and correct errors in the receipting process for collections. However, evidence of the review and approval of these adjustments to collections was not documented.

Garvin County:

Reconciliations

- Upon discussion and observation of the financial records of the District Attorney's office in Garvin County, it was noted that the staff did not provide documentation of the reconciliation of collections and disbursements with the Garvin County Treasurer's Monthly Official Depository Report. Rather, the District Attorney office calls the Garvin County Treasurer's office and verbally confirms collections and disbursements; thus, not documenting the reconciliation financial activity.

Cause of Condition: The District Attorney's office policies and procedures have not been completely implemented by employees to safeguard against unauthorized access to computer data, defendant file maintenance, review and approval of adjustments, and reconciliation of financial activity.

Effect of Condition: These conditions could result in unauthorized access to financial information and errors or misappropriation of funds in the reporting and documentation of the collection of payments and the reconciliation of program funds.

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT 21
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

Recommendation: The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends the District Attorney’s staff implement written policies and procedures for the accounting of program funds and the maintenance of defendant 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 administrative approval and review of IT software adjustments.
- Guidelines for system security and system inactivity management.
- Guidelines for documenting the review and approval of all adjustments made to defendant’s accounts.
- Guidelines for providing evidence of the monthly reconciliation of financial activity for each program to the respective County Treasurer’s Monthly Official Depository Report.

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 implementation of policies and procedures 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’s response to Finding 2018-001 is as follows:

Information Technology

- The District Attorney’s office has updated its policy and procedure so that legal interns will not share a password and will only be provided “read only” capabilities within the system.
- The District Attorney’s office is currently working with the District Attorneys Council on a system wide solution to resolve the issue of logging out after a period of inactivity.

Cleveland County:

Collections

- Currently, the software documents this process and therefore, there is documentation. Moving forward, the District Attorney’s office will print the documents and both employee and supervisor will sign the void documentation.

Garvin County:

Reconciliations

- The District Attorney’s office will update our policy and procedure to provide an email or copy of the deposit balances for monthly reconciliations purposes.
- On July 31, 2019, an email was sent notifying all collections personnel in Cleveland County and collections support staff in McClain and Garvin Counties of the policy and procedure changes.

**GREG MASHBURN, DISTRICT ATTORNEY
DISTRICT 21
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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 12 - Implement Control Activities – 12.04 states:

Documentation of Responsibilities through Policies

Those in key roles for the unit may further define policies through day-to-day procedures, depending on the rate of change in the operating environment and complexity of the operational process. Procedures may include the timing of when a control activity occurs and any follow-up corrective actions to be performed by competent personnel if deficiencies are identified. Management communicates to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.

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



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