



# DISTRICT ATTORNEY DISTRICT 2

## Statutory Report

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

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

**ANGELA MARSEE, DISTRICT ATTORNEY  
DISTRICT 2**

**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**

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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.

February 14, 2019

Angela Marsee, District Attorney  
District 2  
Custer County Courthouse  
Arapaho, Oklahoma 73620

Transmitted herewith is the statutory report for the District Attorney of District 2, Custer, Beckham, Washita, Roger Mills, and Ellis Counties, 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



**ANGELA MARSEE, DISTRICT ATTORNEY  
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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.

**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

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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.

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District 2  
Custer County Courthouse  
Arapaho, Oklahoma 73620

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 Custer, Beckham, Washita, Roger Mills, or Ellis 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

February 1, 2019



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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2018-001 – Segregation of Duties Over Receipting and Balancing Processes for the Supervision Fee and Bogus Check Programs (Repeat Finding)**

**Condition:** Upon inquiry of the District Attorney’s staff and observation of the receipting and balancing processes, it was noted Roger Mills and Ellis County have one employee in each office that performed the following duties:

- Issued receipts,
- Balanced the cash drawer,
- Prepared and delivered deposits to the County Treasurer,
- Posted payments to accounts, and
- Reconciled account balances with the County Treasurer’s records.

To mitigate the lack of segregation of duties, the District Attorney has designed and implement policies and procedures that require all payments must be made by cashier’s check or money order. Cash payments are not accepted; therefore, the risk of mismanagement or misappropriation has been significantly lowered.

**Cause of Condition:** Although mitigating controls have been designed and implemented to reduce the risk of mismanagement or misappropriation, the duties of receipting funds and balancing accounts are concentrated within one employee in Roger Mills County and Ellis County due to the limited staff members in each office. Policies and procedures have not been designed and implemented to separate the key accounting functions of each office.

**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 recommends management consider transferring the collection and disbursement responsibilities of the Supervision Fee and Bogus Check Programs to Custer County where all other accounting functions of the District have been centralized to mitigate the risks associated with having one employee perform all receipting and balancing duties in Roger Mills County and Ellis County,

**Management Response:**

**District Attorney:** Due to the continuing budget restraints, we are unable to hire another staff member to be utilized for entering and receipting collections. We believe the staff we have in place separate the duties and ensures protection, within reason under the budget restraints, of posting and depositing the collections received in our District.

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For Roger Mills County, we plan to utilize the two part-time employees by having one employee receive the collections and the other employee verify and send the collections to Custer County. For Ellis County, we plan to have our part-time employee receive the collections and our part-time Assistant District Attorney verify and send the collections to Custer County. Once payments are received at Custer County, a receipt will be mailed to the defendant after the payment has been entered into the computer system.

**Criteria:** Accountability and stewardship are overall goals of management in the accounting of funds. An important aspect of internal controls is the safeguarding of assets. Internal controls over safeguarding of assets constitute a process, affected by management and other personnel, designed to provide reasonable assurance regarding prevention or timely detection of unauthorized transactions and safeguarding assets from misappropriation.

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S·A·I  
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**Cindy Byrd, CPA | State Auditor & Inspector**

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