



# DISTRICT ATTORNEY DISTRICT 27

## Statutory Report

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

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

**JACK THORP, DISTRICT ATTORNEY  
DISTRICT 27**

**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**

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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.

August 26, 2019

Jack Thorp, District Attorney  
District 27  
Wagoner County Courthouse  
Wagoner, Oklahoma 74467

Transmitted herewith is the statutory report for the District Attorney of District 27, Wagoner, Sequoyah, Cherokee, and Adair 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 FEE 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 FEE 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

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 27  
Wagoner County Courthouse  
Wagoner, Oklahoma 74467

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 Fee, and Supervision 991 Fee 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 fee program, supervision 991 fee 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 Cherokee, Wagoner, Sequoyah, and Adair Counties.

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

April 9, 2019



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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2018-001 – Internal Control Environment - Written Policies and Procedures for the Timely Depositing of Fees for Supervision 991 and Drug Asset Forfeiture Programs**

**Condition:** The District Attorney is currently implementing written policies and procedures for the safeguarding and reporting of District program funds. However, the review of District Attorney accounts and records, and the test of receipts, disbursements, and cash balances, indicated some weaknesses in certain areas, which include the following:

***Supervision 991 Program***

**Sequoyah County**

- The test of deposits for eleven (11) days reflected two (2) to ten (10) days had lapsed before payments were deposited with the County Treasurer, resulting in funds not being deposited in a timely manner.

**Wagoner County**

- The test of deposits for seven (7) 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.

**Adair County**

- The test of deposits for five (5) days reflected two (2) to twenty-eight (28) days had lapsed before payments were deposited with the County Treasurer, resulting in funds not being deposited in a timely manner.

***Drug Asset Forfeiture Program***

**Cherokee County**

- Three (3) duplicate receipt and deposit books were utilized simultaneously in no sequential order for the depositing of seized currency.

**Cause of Condition:** The District Attorney's office does not have formal policies and procedures implemented to ensure collections are properly documented and deposited in a timely manner.

**Effect of Condition:** These conditions could result in employee error for the reporting and documentation of the collection of payments, unrecorded transactions, or misappropriation of funds.

**Recommendation:** The Oklahoma State Auditor and Inspector's Office recommends that management design and implement written policies and procedures for the accounting of program funds. Implementing

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this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is accounted for properly. Such policies should include the following:

- Guidelines for the oversight of the daily collection process and the depositing of funds.

Furthermore, OSAI 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 District's assets.

**Management Response:**

**District Attorney:**

**Supervision 991 Program:** A written policy and procedure is now in place in all Counties of District 27 regarding timely deposits. Unfortunately, some of the deposit processes had become "relaxed" resulting in funds not being deposited in a timely manner. The Finance Coordinator, upon realizing this situation, sent an email on October 3, 2018 to the employees and their supervisors to quickly remedy the issue. To my knowledge, this has been addressed and corrected.

**Drug Asset Forfeiture Program:** The duplicate deposit and receipt books are no longer utilized and have been closed out. A new receipt book, clearly marked as "Unforfeited Funds Only," is now used for the documentation of seized funds that have not been forfeited by court order. The deposit books for the Drug Asset Forfeiture and "Unforfeited Funds Only" Accounts have also been clearly marked to avoid deposit errors. The office staff has been informed both verbally, and in writing, that no additional books are to ever be used to receipt or deposit "Unforfeited Funds Only."

**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 and to safeguard data.

O·K·L·A·H·O·M·A  
S·A·I  
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