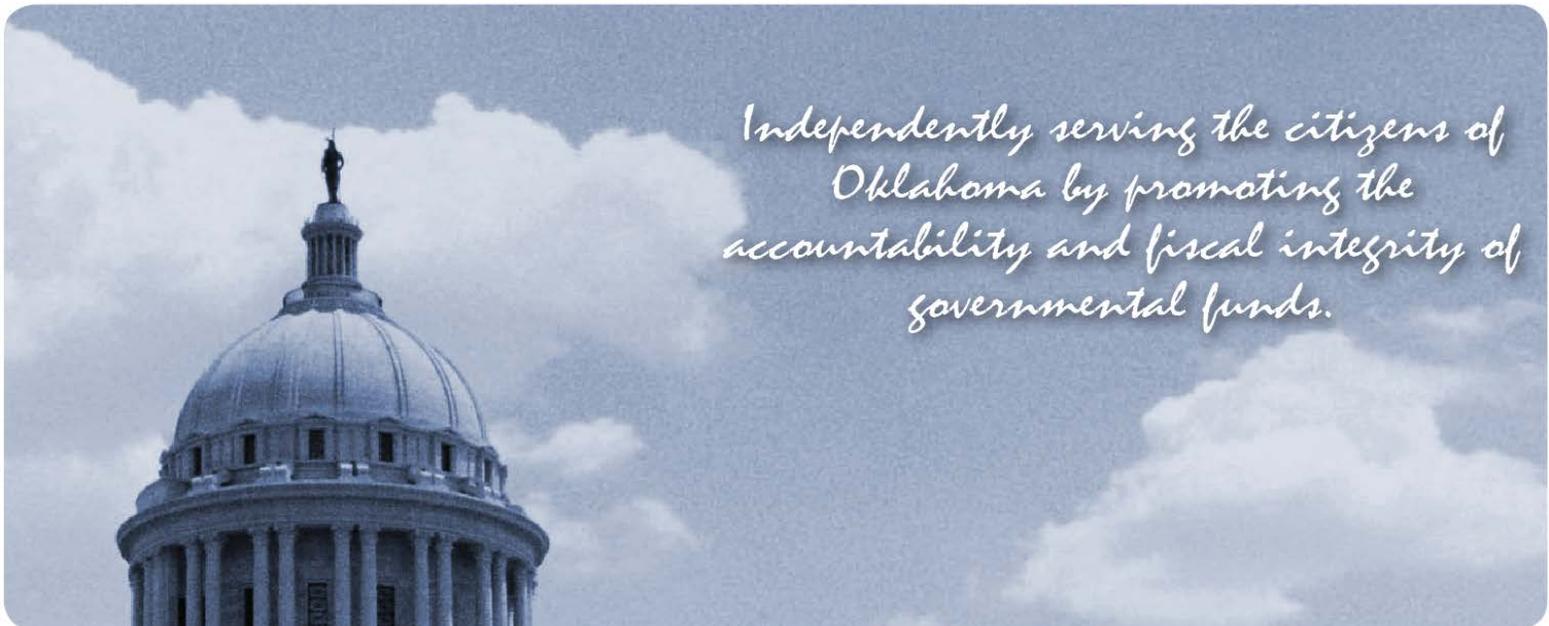


STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 3  
BOGUS CHECK RESTITUTION PROGRAM  
SUPERVISION PROGRAM  
SUPERVISION 991 PROGRAM  
DRUG ASSET FORFEITURE PROGRAM**

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



Oklahoma State  
Auditor & Inspector  
Gary A. Jones, CPA, CFE

**KEN DARBY, DISTRICT ATTORNEY  
DISTRICT 3**

**STATUTORY REPORT  
BOGUS CHECK RESTITUTION PROGRAM  
SUPERVISION PROGRAM  
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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.



# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

October 2, 2018

Ken Darby, District Attorney  
District 3  
Jackson County Courthouse  
Altus, Oklahoma 73521

Transmitted herewith is the statutory report for the District Attorney of District 3, Jackson, Kiowa, Greer, Harmon, and Tillman 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,

A handwritten signature in blue ink that reads "Gary A. Jones".

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

**KEN DARBY, DISTRICT ATTORNEY  
DISTRICT 3  
STATUTORY REPORT  
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**KEN DARBY, DISTRICT ATTORNEY  
DISTRICT 3  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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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 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 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

**KEN DARBY, DISTRICT ATTORNEY  
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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.



# Oklahoma State Auditor & Inspector

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## Statutory Report

Ken Darby, District Attorney  
District 3  
Jackson County Courthouse  
Altus, Oklahoma 73521

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, Supervision 991 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, 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, 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 Jackson, Kiowa, Greer, Harmon or Tillman 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.

A handwritten signature in blue ink that reads "Gary A. Jones". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

August 30, 2018

**KEN DARBY, DISTRICT ATTORNEY  
DISTRICT 3  
STATUTORY REPORT  
FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2018**

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**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2018-001 – Inadequate Internal Controls Over the Collections and Disbursements Processes and Noncompliance Over the Daily Depositing of Funds (Repeat Finding)**

**Condition:** The District Attorney’s office for District 3 utilizes a central office located in Altus, Oklahoma in Jackson County. The District Attorney has three employees that process collections and disbursements for the Bogus Check Restitution Program, Supervision Fee Program, Supervision 991 Program and Property Forfeiture Program. Fees and restitution are collected from offenders for Harmon County, Jackson County, Kiowa County, Tillman County, and Washita County.

Based on inquiry of the District Attorney’s staff, we determined the duties of receipting, depositing, recording, reconciling, and the authorization and execution of transactions are not adequately segregated over these programs.

Additionally, both computer systems allow controls to be set restricting access to programs; however, these controls are not being utilized. Each employee has access to all programs including the ability to delete/change receipts and/or vouchers.

**Bogus Check Restitution Program:**

One employee prepares, prints, and mails the vouchers for Bogus Check restitution disbursements for merchants.

In addition, while testing receipts to deposits we found that deposits are not made timely in the following accounts:

- Drug Asset Forfeiture Program (FY2017 and FY2018)
- Bogus Check Restitution Program (FY 2017)
- Supervision Fee Program (FY 2017)
- Supervision 991 Program (FY 2017)

**Cause of Condition:** Policies and procedures have not been designed and implemented to adequately segregate the duties over all accounting functions of the office and ensure all program funds are deposited on a daily basis.

**Effect of Condition:** A single person having responsibility for more than one area of accounting functions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner. Although the other program funds are now being deposited daily, the condition of not depositing Drug Asset Forfeiture Program proceeds on a daily basis resulted in noncompliance with state statute.

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**Recommendation:** The Oklahoma State Auditor and Inspector’s Office recommends that management be aware of these conditions. A 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. In the event that a 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 approve accounting functions and daily depositing of funds in compliance with 62 O.S. § 517.3B.

**Management Response:**

**District Attorney:** We recognize the importance of internal controls and now have segregation of duties in place for collections, disbursements, voided transactions and daily depositing of funds.

**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, including adequately segregating duties of collecting and disbursing funds, and timely depositing drug asset forfeiture funds.

Further, Title 62 O.S. § 517.3B states in part, “The treasurer of every public entity shall deposit daily, not later than the next banking day...”



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