

STATUTORY REPORT

DISTRICT ATTORNEY DISTRICT 4

**BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM**

SUPERVISION 991 PROGRAM

RESTITUTION AND DIVERSION PROGRAM

DRUG ASSET FORFEITURE PROGRAM

For the period of July 1, 2015 through June 30, 2017



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



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

**MIKE FIELDS, DISTRICT ATTORNEY
DISTRICT 4**

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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) 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

February 26, 2018

Mike Fields, District Attorney
District 4
Garfield County Courthouse
Enid, Oklahoma 73701

Transmitted herewith is the statutory report for the District Attorney of District 4, Blaine, Canadian, Garfield, Grant and Kingfisher Counties, Oklahoma (the District) for the period of July 1, 2015 through June 30, 2017.

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". The signature is written in a cursive style with a long, sweeping tail on the letter "s".

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

**MIKE FIELDS, 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.



Oklahoma State Auditor & Inspector

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Statutory Report

Mike Fields, District Attorney
District 4
Garfield County Courthouse
Enid, Oklahoma 73701

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, 2015 through June 30, 2017.

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 Blaine, Canadian, Garfield, Grant, or Kingfisher 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 a long horizontal stroke at the end.

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

December 18, 2017

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SCHEDULE OF FINDINGS AND RESPONSES

Finding-3 Inadequate Internal Controls and Noncompliance Over the Drug Asset Forfeiture Program (District Attorney Drug Enforcement Fund) (Repeat Finding)

Condition: As part of our review of the District Drug Asset Forfeiture Program (District Attorney Drug Enforcement Fund), we tested receipts, disbursements, cash balances, and the procedural process of drug asset forfeiture cases. As a result, some deficiencies were noted in certain areas, which include the following:

Blaine County

- A Drug Asset Forfeiture Program case inventory listing was provided to the auditor; however, the inventory was not complete as it did not contain the drug asset forfeiture cases tested for the audit period.
- Due to seized property/currency remaining in the custody of the seizing agency until the court orders forfeiture of said property/currency, the following instances of noncompliance were noted:
 - **Case Number CS-2016-64** - \$415.00 currency seized was court ordered to be deposited into the District Attorney Drug Enforcement Fund, but was not deposited into the District's Drug Asset Forfeiture Fund. As of the audit date, the funds have not been located.
 - **Case Number CS 2017-34** - \$207.00 currency seized was court ordered to be deposited into the District Attorney Drug Enforcement Fund on July 26, 2017; however, the currency was not deposited with the Blaine County Treasurer until the auditor notified the District Attorney's office on November 13, 2017.

Cause of Condition: The District does not have policies and procedures established (District-wide) for collections, disbursements, and financial reporting for the assets seized in the Drug Asset Forfeiture Program (District Attorney Drug Enforcement Fund). Further, drug asset forfeiture cases are not tracked as to the disposition of property inventory including currency.

Effect of Condition: These conditions resulted in inaccurate accounting and reporting of collections for the District. These conditions also affected drug asset forfeiture case activity and the location or disposition of seized property and resulted in noncompliance with the court order and state statute.

Recommendation: The Oklahoma State Auditor & Inspector's Office (OSAI) recommends management adhere to written policies and procedures for the accounting of Drug Asset Forfeiture Program funds and the maintenance of case 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 forfeiture inventory.

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Furthermore, we recommend management adhere to Title 63 O.S. § 2-506, and manage risks. Management should also assess the quality and effectiveness of the organizations 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 assets.

Management Response:

District Attorney: Response:

- i. A change in personnel in the Blaine County Sheriff's Office occurred during the review period when the forfeitures in question occurred. This employee oversaw the evidence in both cases (the \$415.00 and the \$207.00). After the employee left employment with the Blaine County Sheriff's Office, the evidence could no longer be located. The District Attorney's Office has requested an OSBI investigation in regard to the missing evidence.
- ii. The District Attorney's policies in forfeiture actions require that the seizing agency hold evidence prior to the resolution of a case in order to preserve the chain of custody. Once the case is resolved, the forfeiture is ordered and the evidence is disposed of in accordance with the court order. Each law enforcement agency is expected to comply with the court order.
- iii. The District Attorney's Office works with many different law enforcement agencies that seize items subject to forfeiture under Title 63. These law enforcement agencies vary in size and capability, and each has its own policies and procedures regarding how it handles evidence. In order to help these law enforcement agencies, District 4 will initiate a new policy whereby the Office of the District Attorney will coordinate with the various law enforcement agencies with which it has drug asset forfeiture sharing agreements on an annual basis to determine the adequacy of the department's internal controls with regard to funds seized pursuant to Title 63.
 1. If the District Attorney in his discretion determines that the law enforcement agency has adequate internal controls to guarantee the safety of money seized, then no modification of the drug asset forfeiture sharing agreement will be requested by the District Attorney.
 2. If the District Attorney in his discretion determines that the internal controls are inadequate to guarantee the safety of money seized, then the District Attorney will propose changes to the drug asset forfeiture sharing agreement to ensure that seized funds are properly secured and available to transfer into the drug asset forfeiture revolving account when ordered by the court.
 3. These documents showing the adequacy or inadequacy of the department's internal controls will be made part of the drug asset forfeiture file for review by the State Auditor.

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.

Title 63 O.S. § 2-506 K states in part, "Property taken or detained under this section shall not be replevable, 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

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accurate inventory and record of all such property seized under the provisions of this section...”



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