



DISTRICT ATTORNEY DISTRICT 4

Statutory Report

For the period of July 1, 2017 through June 30, 2019

Cindy Byrd, CPA
State Auditor & Inspector

**MIKE FIELDS, DISTRICT ATTORNEY
DISTRICT 4**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
DRUG ASSET FORFEITURE PROGRAM
DRUG POSSESSION DIVERSION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
SUPERVISION PROGRAM
SUPERVISION 991 PROGRAM**

FOR THE PERIOD OF JULY 1, 2017 THROUGH JUNE 30, 2019

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.

March 4, 2020

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

Transmitted herewith is the statutory report for the District Attorney of District Blaine, Canadian, Garfield, Grant and Blaine County, Oklahoma (the District) for the period of July 1, 2017 through June 30, 2019.

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



**MIKE FIELDS, DISTRICT ATTORNEY
DISTRICT 4
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FOR THE PERIOD OF JULY 1, 2017 THROUGH JUNE 30, 2019**

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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 program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.

DISTRICT ATTORNEY DRUG ASSET FORFEITURE PROGRAM

The drug asset forfeiture program was created by the Oklahoma Legislature in 1971. 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.

DRUG POSSESSION DIVERSION PROGRAM

The drug possession and diversion program was created by the Oklahoma Legislature in 2016 as a special type of deferred prosecution program. This law allows district attorneys to enter into a written agreement with a defendant to defer prosecution of a charge for the possession of a controlled dangerous substance and possession of drug paraphernalia, or both, for a period to be determined by the district attorney, not to exceed twenty-four (24) months. During this period, the defendant shall be supervised in the community by the district attorney or by a private supervision program.

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.

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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. If 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.

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 and 2-901, we have performed the following procedures as they relate to the records of the District Attorney's programs for the period of July 1, 2017 through June 30, 2019.

Bogus Check Restitution, Supervision, Supervision 991, Drug Possession Diversion, 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, 63 O.S. § 2-901, 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, 991d, 991a (hh), 991f-1.1, and 63 O.S. §2-901, 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 accounts with the County Treasurer's ledgers.
- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council that reflects total collections and total disbursements for the Bogus Check Restitution Program, Supervision Program, Supervision 991 Program, Drug Possession Diversion 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 a 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 whether the District Attorney prepares and submits an annual report to the District Attorneys Council reflecting the total collections, 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, drug possession diversion 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 finding in the accompanying schedule.

This report is intended for the information and use of the District Attorney and District management. However, this report is a matter of public record and its distribution is not limited.



CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR

February 6, 2020

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SCHEDULE OF FINDINGS AND RESPONSES

Finding 2019-001 – Internal Controls and Noncompliance Over the District Attorney Drug Enforcement Fund (Drug Asset Forfeiture Program)

Condition: Local law enforcement (seizing agency) holds all seized assets until the court orders the assets to be forfeited or returned. Subsequent to the court order, the seizing agency deposits cash seizures with the respective County Treasurer in the District Attorney’s Drug Enforcement Fund. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the seized funds that have been forfeited.

Regarding seized assets such as vehicles and guns, local law enforcement (seizing agency) maintains possession of the asset until the court orders the asset forfeited or returned. Upon forfeiture, the seizing agency sells the asset and the proceeds are deposited with the respective County Treasurer in the District Attorney’s Drug Enforcement Fund. The District Attorney’s office issues a payment to the seizing agency for the agreed upon share of the sale of the seized asset.

Upon inquiry of District Attorney staff and review of the drug asset forfeiture property inventories, case files and documentation of asset forfeitures for each County office, weaknesses were identified in the Drug Asset Forfeiture Program for Blaine, Canadian, Garfield, and Grant Counties.

Blaine County

A test of six (6) case files reflected the following exceptions:

- A Drug Asset Forfeiture Fund case inventory listing was provided to the auditor; however, the inventory provided was not complete as it did not contain one of the property forfeiture cases tested for the audit period (CS-2017-91).
- Case CS-2017-91 in the amount of \$375.00 ordered forfeited on April 17, 2018 was not been deposited with the Blaine County Treasurer. Additionally, the seizing agency (Canton Police Department) could not confirm the money was in possession of the department as of the date of fieldwork.
- Case CS-2017-88 in the amount of \$252.00 was pending with the seizing agency (Canton Police Department). Additionally, the seizing agency could not confirm the money was in possession of the department at the date of fieldwork.
- Case CV-2019-2 was dismissed on August 21, 2019 and the seized property (Chevrolet Silverado) was ordered to be returned to the rightful owner. However, as of September 25, 2019 the pickup was physically located and in the possession of the seizing agency (Blaine County Sheriff’s office).

Canadian County

A test of twelve (12) case files reflected the following exceptions:

- A Drug Asset Forfeiture Fund case inventory listing was provided to the auditor; however, the inventory provided was not up to date, as three (3) cases listed on the inventory as pending have been forfeited. (CV-2018-2, CV-17-285, CV-17-269).

- Case CV-2017-285 in the amount of \$315.00 was ordered forfeited on June 28, 2019; however, on September 16, 2019 the seizing agency (Yukon Police Department) returned the money to the defendant.

Garfield County

A test of eleven (11) case files reflected the following exceptions:

- Case CV-2017-108 in the amount of \$2,938.00 was ordered forfeited on October 24, 2018; however, it was not deposited with the Garfield County Treasurer. Additionally, the seizing agency (Garfield County Sheriff's office) was unable to confirm the money was in possession of the department as of the date of fieldwork.
- Case CV-2017-10, included the seizure of a 2009 Dodge Charger that was forfeited on May 17, 2107 and ordered to be sold. As of October 16, 2019, the vehicle has not been sold.

Grant County

A test of one (1) case file reflected the following exception:

- Case CV-2017-15, included the seizure of a Glock Model 23 handgun, that was forfeited on August 3, 2017. The handgun was ordered to be sold at auction and proceeds deposited with the Grant County Treasurer or the handgun to be destroyed. The gun was sold through consignment with a local gun dealer and the proceeds were deposited with the seizing agency (Medford Police Department) rather than the Grant County Treasurer.

Cause of Condition: The District Attorney's office has not designed and implemented policies and procedures (District-wide) for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure seized assets are safeguarded. Further, the test of drug asset forfeiture cases reflected those exceptions as noted in the conditions that were not effectively tracked as to the disposition of seized asset property inventory.

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

Recommendation: The Oklahoma State Auditor's office (OSAI) recommends that management adhere to written policies and procedures for the accounting of program funds and the maintenance of 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 asset forfeiture inventory.

Furthermore, OSAI recommends management adhere to Title 63 O.S. § 2-506 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 daily transactions and recordkeeping of the program. This will ensure that management has taken the necessary steps in safeguarding the District's responsibility for asset forfeitures.

Management Response:

District Attorney:

Blaine County

- The District Attorney maintains a master case inventory spreadsheet which lists all of the drug asset forfeiture cases in our District. The purpose of maintaining this spreadsheet is to have in one location updated information about all asset forfeiture cases filed and litigated by our office in all five counties of our district. The audit revealed that one case in Blaine County had been filed by our office but was not listed on the case inventory spreadsheet. In response to this finding, we have updated our list, and we will be diligent in periodically updating it in the future to ensure it serves its intended purpose.
- The audit revealed two cases submitted by the Canton Police Department and filed by our office (CS-2017-91 & CS-2017-88) in which the Canton Police Department could not confirm the money it had seized (\$375.00 and \$252.00, respectively) was in its possession. It is our understanding that at the time the auditor inquired of the Canton Police Department if it had possession of the money, the Chief of Police had recently left the department. Apparently, auditors were told he had the one and only key to the evidence room where the money was believed to be kept, and the auditors (nor anyone else) had the ability to get into the evidence room to look for the money.
- After we learned this information from the auditor, our office contacted the Canton Police Department, and we were told the new Chief of Police had looked for the money in the evidence room and was unable to locate it. As a result, our office contacted the OSBI and requested a criminal investigation on January 28, 2020. It is our understanding the new Chief of Police had previously requested an OSBI investigation as well, and the OSBI has opened a criminal investigation.
- It is worth noting that the apparent loss or theft of the cash in these two cases does not appear to have impacted a citizen's property rights. The court ordered the \$375 in CS-2017-91 forfeited to the State back in April of 2018. Case CS-2017-88 (\$252.00) is still pending. However, it was filed on December 11, 2017 and notice was hand delivered to the purported owner on the same date and no answer has ever been filed so the State appears to be entitled to a judgment.

Canadian County

- The audit revealed that case number CV-2019-2 was dismissed on August 21, 2019, and the seized property, a Chevrolet Silverado pickup truck, was ordered returned to the owner. As of the date of the auditor's inquiry (September 25, 2019) the pickup had not yet been returned as ordered. However, on December 3, 2019 the pickup was returned to the owner as noted in the Blaine County Sheriff's Office report showing that the property was returned.
- The audit revealed that the status of three cases had not been updated on our case inventory spreadsheet. Our spreadsheet showed these cases as "pending" when they had been forfeited and closed. We updated our case inventory spreadsheet accordingly, and we will be diligent in periodically updating it in the future to ensure it serves its intended purpose.
- The audit revealed that in CV-2017-285, \$315 was seized by the Yukon Police Department and this \$315 was ordered forfeited by the Court on June 28, 2019, after a default judgment was entered. However, on September 16, 2019, the Yukon Police Department inexplicably returned the \$315 to the owner. After our office became aware the \$315 had been returned, we sought and obtained from the Court an order vacating the forfeiture, dismissing the case, and returning the property to its owner.

Garfield County

- The audit revealed that in case number CV-2017-108, \$2,938.00 was seized by the Garfield County Sheriff's Office. The \$2,938 was ordered forfeited to the State on October 24, 2018. At the time of the audit inquiry, the \$2,938 had not been deposited with the Garfield County Treasurer as ordered by the Court. After being made aware of this audit finding, our office contacted the Garfield County Sheriff's Office, and they deposited the \$2,938.00 with the Garfield County Treasurer on December 20, 2019.
- The audit revealed that in case number CV-2017-10 a 2009 Dodge Charger was seized by the Garfield County Sheriff's Office and this vehicle was ordered forfeited on May 17, 2017. In this order, the vehicle was to be sold. As of October 16, 2019, the vehicle had not been sold. After our office became aware of this finding, we contacted the Garfield County Sheriff Jody Helm, and he indicated that has taken affirmative steps to sell the vehicle at an online auction cite for government agencies.

Grant County

- The audit revealed that in case number CV-2017-15 a handgun was seized and ordered forfeited on August 3, 2017. The handgun was ordered to be sold at auction and the proceeds deposited with the Grant County Treasurer. The handgun was indeed sold but all of the proceeds were deposited with the seizing agency (the Medford Police department) rather than the Grant County Treasurer. Once our office became aware, we directed the Medford Police Department to deposit the District Attorney's Office's share of the proceeds (25% as per our forfeiture sharing agreement) with the Grant County Treasurer. This occurred on September 11, 2019.

Our office takes all of this responsibility very seriously; therefore, after we were made aware of the audit findings, we undertook a comprehensive review of our processes and procedures, and I've implemented some changes:

First, up until now, our office required the seizing agency to retain all seized property including cash until the conclusion of the forfeiture proceeding. Once the forfeiture case concluded, our office notified the seizing agency and asked them to follow the order of the court to either deposit cash directly into the DA's CDS Revolving account, return the cash/property to the owner, sell the property, etc.

As a result of the audit findings, our office has changed this procedure. We will execute new forfeiture sharing agreements with all law enforcement agencies in our district that will require them to photo copy and document all seized cash and then immediately (within the next business day after the seizure) deposit the cash into an account at the county treasurer's office where it will be held in trust pending the filing, litigation, and ultimate disposition of the case. This procedure will ensure that the whereabouts of the cash are known to us during the pendency of the case and should virtually eliminate the possibility that the seizing agency misplaces, steals, loses, or inadvertently disposes of the cash in a way that is not consistent with an order of the court or state law. It will also establish a clear paper trail of money going into and out of the account as included in our new Forfeiture Sharing Agreement.

Second, as a result of the audit findings, our office is establishing a presumptive threshold amount of \$2,000.00 before we will file, prosecute, and litigate a forfeiture action. We will no longer prosecute forfeiture actions involving less than \$2,000.00 without a clear justification by the seizing agency as to why

we should make an exception to our policy. This change will also be reflected in the new forfeiture sharing agreements we will execute with the law enforcement agencies in our district.

Lastly, our office has created a checklist that must be followed and completed by the Assistant District Attorney handling each forfeiture case. The checklist should help us safeguard seized property as well as ensure that our staff and the seizing agency follow the requirements of our Asset Forfeiture Sharing Agreement as well as state law. A requirement to follow the checklist will be added to our District's Prosecution Standards, which our Assistant District Attorneys must adhere to as a condition of employment.

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 – Section 2 – Objectives of an Entity - OV2.23 states in part:

Compliance Objectives

Management conducts activities in accordance with applicable laws and regulations. As part of specifying compliance objectives, the entity determines which laws and regulations apply to the entity. Management is expected to set objectives that incorporate these requirements.

Title 63 O.S. §2-506 K states in part, “Property taken or detained under this section shall not be repleviable, 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 accurate inventory and record of all such property seized under the provisions of this section...”

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



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