



DISTRICT ATTORNEY DISTRICT 16

Statutory Report

For the period of July 1, 2020 through June 30, 2022

Cindy Byrd, CPA
State Auditor & Inspector

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION FEE AND SUPERVISION FEE STATE REMITTANCE PROGRAMS
991 FEE AND 991 FEE STATE REMITTANCE PROGRAMS
DRUG ASSET FORFEITURE PROGRAM**

FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022

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.



June 10, 2024

Jeff Smith, District Attorney
District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

Transmitted herewith is the statutory report for the District Attorney of District 16 LeFlore and Latimer County, Oklahoma (the District) for the period of July 1, 2020 through June 30, 2022.

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 "Cindy Byrd".

CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

TABLE OF CONTENTS

Introductory Information ii

Statutory Report of State Auditor and Inspector 1

Schedule of Findings and Responses 3

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

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 manner to address criminal conduct without sending many offenders to state prisons.

SUPERVISION FEE AND SUPERVISION FEE STATE REMITTANCE PROGRAMS

The district attorney supervision fee 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.

Beginning on July 1, 2019, a supervision fee state remittance account was created pursuant to 22 O.S. § 991d (2) amended as follows, “Any fees collected by the district attorney pursuant to this paragraph shall be deposited in the General Revenue Fund of the State Treasury.” Fees collected at the district offices are deposited monthly with the county treasurer and transferred monthly for annual budgeted appropriations at the state level.

991 FEE AND 991 FEE STATE REMITTANCE PROGRAMS

The district attorney 991 fee 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.

Beginning on July 1, 2019, a 991 fee state remittance account was created pursuant to 22 O.S. § 991a (1)(ii) amended as follows, “Any fees collected by the district attorney pursuant to this paragraph shall be deposited in the General Revenue Fund of the State Treasury.” Fees collected at the district offices are deposited monthly with the county treasurer and transferred monthly for annual budgeted appropriations at the state level.

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

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.



Statutory Report

Jeff Smith, District Attorney
District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991a(A)(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, 2020 through June 30, 2022.

Bogus Check Restitution, Supervision Fee/State Remittance, and 991 Fee/State Remittance Programs:

- Determine that internal controls are designed and operating over the collections and disbursement process.
- 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(A)(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, 991d, 991a(A)(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 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, Supervision Fee/State Remittance, and 991 Fee/State Remittance.

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, Supervision Fee/State Remittance, 991 Fee/State Remittance, and Drug Asset Forfeiture Programs 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 LeFlore or Latimer 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 District management. However, this report is a matter of public record, and its distribution is not limited.



CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR

March 25, 2024

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2022-001 – Lack of Segregation of Duties – Bogus Check Restitution, Supervision Fee, 991 Fee, Victim Restitution, and Drug Asset Forfeiture Programs (Repeat Finding)

Condition: The District does not have an adequate segregation of duties to ensure that duties assigned to individuals are done so in a manner that would not allow one individual to control both the recording function and the procedures relative to processing a transaction. Upon inquiry of the District Attorney's office staff and observation of records, the following instances of the lack of segregation of duties in personnel were noted:

LeFlore County

A lack of segregation of duties continues to exist in the procedural process of the Bogus Check Restitution (Merchant and DA Fees), Supervision Fee, 991 Fee, and Victim Restitution Programs. One employee prepares and delivers the deposit, prepares, and issues disbursements, maintains subsidiary ledgers, performs monthly reconciliations, and prepares the annual report. No one independent of these processes reviews the deposits, reconciliations, or the annual reports to ensure accuracy of the amounts reconciled.

Additionally, there is no segregation of duties over the Drug Asset Forfeiture Program. One employee receives funds, prepares and delivers deposits, issues disbursements, maintains ledgers, and performs monthly reconciliations. No one independent of these processes reviews the deposits or reconciliations to ensure accuracy of the amounts reconciled.

Latimer County

There is no segregation of duties over the Drug Asset Forfeiture Program. One employee receives and delivers deposits, prepares and issues disbursements, maintains ledgers and reconciles with the County Treasurer. No one independent of these processes reviews the deposits or reconciliations to ensure accuracy of the amounts reconciled.

Cause of Condition: Policies and procedures have not been fully designed and adequately implemented to properly separate key accounting functions.

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 (OSAI) recommends the District Attorney be aware of these conditions and realize that 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 the District Attorney's overseeing of office operations and a periodic review of operations. OSAI recommends the District Attorney provide segregation of duties so that no one employee can perform all

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

accounting functions. If 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 as follows:

The District Attorney staff should provide evidence of review and approval of accounting functions including:

- Someone other than the preparer reviewing documents,
- Initialing and dating the review of deposits,
- Re-performing and reviewing reconciliations, and
- Initialing and dating the review of deposit summaries, monthly reports and annual reports.

Management Response:

Current District Attorney: While I was not serving as the District Attorney during this reporting period, our office has begun taking steps to implement additional internal controls as recommended in the report. We hope to have updated policies and procedures in place for Bogus Check/Restitution, Supervision Fee/State Remittance and 991 Fee/State Remittance, Victim Restitution and Drug Asset Forfeiture by the time OSAI arrives for the next reporting period.

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 – Principle 10 – Design Control Activities – 10.03 states in part:

Segregation of duties

Management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions and handling any related assets so that no one individual controls all key aspects of a transaction or event.

Additionally, Principle 10 – Segregation of Duties states:

10.12 – Management considers segregation of duties in designing control activity responsibilities so that incompatible duties are segregated and, where such segregation is not practical, design alternative control activities to address the risk.

10.13 – Segregation of duties helps prevent fraud waste and abuse in the internal control system. Management considers the need to separate control activities related to authority,

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

custody, and accounting operations to achieve adequate segregation of duties. In particular, segregation of duties can address the risk of management override. Management override circumvents existing control activities and increases fraud risk. Management addresses this risk through segregation of duties but cannot absolutely prevent it because of the risk of collusion, where two or more employees act together to commit fraud.

10.14 – If segregation of duties is not practical an operational process because of limited personnel or other factors, management designs alternative control activities to address the risk of fraud, waste, or abuse in the operational process.

Finding 2022-002 – Lack of Internal Controls Over Written Policies and Procedures for Information Technology and Drug Asset Forfeiture Program Inventory (Repeat Finding)

Condition: The District Attorney’s office has established written policies and procedures for internal controls and the safeguarding and reporting of program funds. However, some deficiencies were noted in certain areas, which include the following:

LeFlore County

Information Technology

- The employee who performs financial functions within Supervision, Restitution, and Bogus Check, is also the administrator of the accounting software.
- Voided receipts, deletions, and write-off reports are not reviewed periodically.
- A time out security measure has not been assigned in the system nor are employees required to log out of the system when leaving their workstation.

Drug Asset Forfeiture

- An inventory of seized property is not being maintained.

Latimer County

Information Technology

- A time out security measure has not been assigned in the system nor are employees required to log out of the system when leaving their workstation.

Drug Asset Forfeiture

- An inventory of seized property is not being maintained.

Cause of Condition: The District Attorney’s office policies and procedures have not been completely implemented by personnel to safeguard against unauthorized access to computer data, defendant file maintenance and financial misappropriation of funds. In addition, procedures have not been established to

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

ensure the status of civil forfeiture cases and the disposition of property inventory are properly documented and maintained.

Effect of Condition: These conditions could result in unauthorized access to District financial information and defendant files. Further, these conditions resulted in noncompliance with state statutes and could affect case activity and the location and/or disposition of seized/forfeited property.

Recommendation: OSAI recommends that the District Attorney’s staff adopt and completely implement written policies and procedures for the accounting program funds and the maintenance of client files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.
- Guidelines for system security and system inactivity management.
- Guidelines for Drug Asset Forfeiture Inventory documentation and status.

Furthermore, we recommend the District Attorney identify, analyze, and manage risks. The District Attorney 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 the District Attorney and staff have taken the necessary steps in safeguarding the District assets.

Management Response:

Current District Attorney: While I was not serving as the District Attorney during this reporting period, our office has begun taking steps to implement additional internal controls as recommended in the report. We hope to have updated policies and procedures in place for Bogus Check/Restitution, Supervision Fee/State Remittance and 991 Fee/State Remittance, Victim Restitution and Drug Asset Forfeiture by the time OSAI arrives for the next reporting period.

Criteria: 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. Some entities may set objectives to a higher level of performance than established by laws and regulations.

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2022**

The GAO Standards – Principle 16 – Perform Monitoring Activities – 16.05 states:

Internal Control System Monitoring

Management performs ongoing monitoring of the design and operating effectiveness of the internal control system as part of the normal course of operations. Ongoing monitoring includes regular management and supervisory activities, comparisons, reconciliations, and other routine actions. Ongoing monitoring may include automated tools, which can increase objectivity and efficiency by electronically compiling evaluations of controls and transactions.

The GAO Standards – Principle 10 – Design Control Activities: 10.03 states in part:

Physical control over vulnerable assets

Management establishes physical control to secure and safeguard vulnerable assets. Examples include security for and limited access to assets such as cash, securities, inventories, and equipment that might be vulnerable to risk of loss or unauthorized use. Management periodically counts and compares such assets to control records.

In addition, 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
SAI
STATE AUDITOR & INSPECTOR



Cindy Byrd, CPA | State Auditor & Inspector

2300 N. Lincoln Blvd., Room 123, Oklahoma City, OK 73105 | 405.521.3495 | www.sai.ok.gov