



Oklahoma District Attorney Supervision: An Unpopular Patchwork Policy

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Key Points

- Oklahoma district attorney supervision is a system without clear guidelines and uniformity in its execution. To reform the program, lawmakers must address the need for clear guidelines, public safety concerns, data recording, and funding problems.
- District attorney supervision was created to address both supervision for low-level offenders and the financial needs of Oklahoma's district attorney offices. The system, throughout its history, has raised issues over conflicts of interest, problems with implementation, and no real data measure of success.
- DA supervision, from a policy standpoint, is failing in its original public safety and financial purpose.
- Oklahoma's current climate of high-profile wars over departmental funding and critical problems in core services could hinder certain paths of reform, but meaningful reform is still possible, affordable, and critical to public safety.

Introduction

While much attention has been given to Oklahoma's large prison population, further attention needs to be focused on the fines and fees that fund the state's criminal justice system on the backs of offenders. Investigating fees and programs in the state's criminal justice system leaves one with the question: What exactly are these fees paying for?

Oklahoma's district attorney supervision programs raise this question. District attorney supervision is unique to Oklahoma and creates several issues pertaining to effectiveness, conflicts of interest, and appropriate funding of the prosecutorial branch of the judicial system. This report will investigate these issues and analyze the possible remedies and solutions and the realistic hurdles that need to be overcome.

History of DA Supervision

In 2005, the Oklahoma Legislature adopted district attorney supervision (DA supervision). According to Title 22 O.S. § 22-991d, DA supervision is available to offenders who have been given a suspended or deferred sentence. Offenders are to pay district attorneys' offices \$40 a month for supervision compensation in addition to their court fees for a term no longer than two years.

Since its inception, the number of individuals under DA supervision in Oklahoma has greatly expanded. By FY 2011, 38,836 individuals were under the direct supervision of Oklahoma's 27 district attorneys. Roughly 28 percent of those on supervision were there for felonies ([The Council of State Governments Justice Center](#)). In FY 2016, the Oklahoma District Attorneys Council (DAC) reported to local media that the number of felony and misdemeanor offenders under DA supervision rocketed to 55,443. The total budget for the district attorneys' offices in Oklahoma that fiscal year totaled just over \$81.9 million with collections from DA supervision providing more than \$14.5 million, or 17.7 percent of their offices' funding. State appropriations from the Oklahoma Legislature provided 45.5 percent of their needed funding with federal grants, bogus check collections, child support, drug asset forfeiture, and other fees making up the remaining 36.7 percent ([Adcock](#)).

Controversy and Inherent Problems with DA Supervision

DA supervision has been a source of controversy over the past 13 years for both criminal justice reform advocates and district attorneys alike. Issues have risen over a lack of clear standards district attorneys' offices are to follow, its furtherance in funding the Oklahoma criminal justice system on the backs of offenders, and inherent conflicts of interest.

Funding sources for Oklahoma’s tremendously large criminal justice system have been a prominent point of tension for years. According to a DAC report presented to the Oklahoma state Senate in 2016, appropriations from state revenues were at the same level in 2016 as they were in 2007, that is around \$39.5 million. At the time of this report, district attorney expenditures were reported to be roughly \$79 million. The report also showed significant decreases in other revenue streams like bogus check funds ([Oklahoma District Attorneys Council](#)).

The 2016 report shows that Oklahoma’s district attorneys increasingly rely on DA supervision as a revenue source ([Oklahoma District Attorneys Council](#)). This increased reliance has drawn complaints from criminal justice reform activists and some district attorneys that this revenue source has created conflicts of interest. The most prominent conflict is a financial incentive to prosecute.

In December 2011, Oklahoma County Public Defender Bob Ravitz described the problem with having district attorneys playing the dual roles of prosecutor and supervision officer to the *Daily Oklahoman*:

Philosophically, I don’t believe that an entity that is prosecuting the individual should be supervising the individual. When you have the DA supervising, they’re the ones who decide to file charges or not. They have a vested financial interest if that person is convicted or not and put on probation ([Cosgrove 2011a](#)).

In the same article, the DAC and prosecutors echoed Ravitz’s concerns. According to Cosgrove, current Executive Coordinator Trent Baggett, who was then-assistant executive director of the DAC, agreed that DA supervision “creates an appearance of a conflict of interest” and said district attorneys need “to make sure they are handling things in an evenhanded way.” Former Tulsa County District Attorney Tim Harris said he made his reservations known to legislators but was told, “...other DAs in the state are doing this. If you don’t get on board and use the tool we’ve given you, quit crying about your budget woes” ([Cosgrove 2011a](#)).

In 2012, the Oklahoma Criminal Court of Appeals issued an opinion in *State v. Stice* that the DA supervision fee “... within § 991d(A)(2) is to be paid to the District Attorney as a fee to compensate the District Attorney for the actual act of supervising the offender during the applicable period of supervision” (*State v. Stice*). Furthermore, the court clarified that offices that have contracted DA supervision out to private entities do not receive the \$40 fee. The court’s opinion rejects the premise that DA supervision fees are even a source for general operations and language

mandating that the fee be used for “actual supervision” was added into statute in 2014 ([SB 1720, 2014](#)). *State v. Stice* SB 1720 required fees provided by probationers to be used for the actual act of supervision. However, there are no current means to determine whether DA offices are actually abiding by these requirements. No reporting mechanism currently exists. Additionally, there is no way to gauge whether probationers with specific risk and needs are being provided specialized attention from supervisors, drug testing, or programming to reduce their risk of recidivism.

Felony probation has clear standards of supervision and what is expected of the supervising office ([57 O.S. § 515a](#)). This includes an intake and orientation, which can help with placement into treatment and programming. In contrast individuals on misdemeanor probation do not have similar minimum requirements. A lack of minimum standards and zero reporting allows supervision and its efficacy to go mainly unchecked.

Additionally, section 515a of Title 57 of Oklahoma Statutes lists sanctions that a supervising office can place on a probationer who does not comply with their terms of probation. However, a similar rewards structure does not exist. Since 2007, 18 states have implemented earned compliance/discharge credits that allow probationers and/or parolees to earn time off their supervision sentence ([Pew Charitable Trusts 2018a](#)). For example, in 2012, Missouri enabled “earned discharge,” where either probationers or parolees could earn time off their sentence for complying with supervision terms. From 2012-2015, supervision time dropped by an average of 14 months, the total supervision population dropped by 18 percent, supervision caseloads decreased 18 percent, while recidivism rates did not change ([Pew Charitable Trusts 2016](#)).

Oklahoma’s laws also require no qualifications for those who supervise individuals on DA supervision. Requirements for probation and parole officers under the authority of the Oklahoma Department of Corrections are clearly defined by statute: Officers must hold a college degree and complete a Council of Law Enforcement Education Training class ([57 O.S. § 515](#)). In 2014, Oklahoma state Senator Jerry Ellis posed the question to Oklahoma Attorney General Scott Pruitt as to whether DA supervision required officers of the same caliber, to which Pruitt responded with a definitive “no” ([2014 OK AG 11](#)). It is difficult to tell what effect this has on the quality of supervision between someone who is supervised under the Department of Corrections compared to someone supervised under a district attorney office; however, the Legislature should look into whether similar or identical qualifications for all supervising bodies is warranted.

Solutions

As discussed above, there are many issues surrounding the practice of district attorneys supervising the same individuals that they had such a strong hand in placing under supervision in the first place. Some, including district attorneys themselves, have suggested removing the practice altogether. DAC Baggett's quote to reporters in 2011 sums up the DAC's general disposition:

Would it be a whole lot better system if we were funded entirely by one entity where we didn't have to rely on these additional funds? Absolutely. Absolutely, it would be great if we could do that, but you know what? That's the hand we're dealt ([Cosgrove 2011b](#)).

However, a myriad of issues, including funding and Department of Corrections bandwidth to supervise these individuals, creates difficulties in removing the program entirely. If DA supervision cannot be eliminated, can it be reformed? Can reforms be made with little to no cost?

The answer is yes.

For the sake of public safety and transparency, Oklahoma can require reporting of a variety of measurables regarding DA supervision. This can include the amount of people being supervised, the offenses they have committed, the amount of time on supervision, whether they were revoked or sanctioned, the amount of fees being collected, how those fees are used, and what types of programs or services

References

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are individuals being placed in, either due to supervision requirements or voluntarily.

Oklahoma could also implement earned compliance credits for individuals not only on DA supervision but supervision generally as discussed above. Other examples of states implementing these incentives are Louisiana and Utah. Louisiana has implemented a reform package that allows offenders to earn time credits for every 30 days in compliance and forgives fee debt based on consistent pay and probation compliance ([Pew Charitable Trusts 2018b](#)). Utah has a complex rubric that runs a wide gamut of behaviors and activities that can earn probationers credits ([Utah Department of Corrections](#)).

The Legislature should also determine whether training and qualification standards for the DAs providing supervision services should be in line with the Department of Corrections requirements.

Conclusion

District attorney supervision in Oklahoma, as articulated above by former Tulsa District Attorney Tim Harris, is directly tied to the state's convoluted financial policy ([Cosgrove 2011a](#)). As years have passed, what lawmakers saw as a money solution more than a decade ago has inherently made other serious problems spring up. A lack of reporting, clear standards, conflict of interest, and no incentive structure for offenders creates a litany of issues that should be addressed by the Legislature. ★

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ABOUT THE AUTHOR



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A native of Baltimore, Joe earned bachelor's degrees from University of Maryland Baltimore County and Towson University. After college, Joe spent the early years of his career in TV news, reporting on crime and state and local politics in West Texas, New Mexico, and Oklahoma.

Joe went on to serve as the communications director for two Oklahoma speakers of the House and has worked as a media consultant for a number of local, state, and federal campaigns. He holds a J.D. from Oklahoma City University School of Law.

About Right on Crime

Right on Crime is a national campaign of the Texas Public Policy Foundation, in partnership with the American Conservative Union Foundation and Prison Fellowship, which supports conservative solutions for reducing crime, restoring victims, reforming offenders, and lowering taxpayer costs. The movement was born in Texas in 2007, and in recent years, dozens of states such as Georgia, Ohio, Kentucky, Mississippi, Oklahoma, and Louisiana, have led the way in implementing conservative criminal justice reforms.

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