



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – March 3, 2021

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## Cape and Islands District Attorney's Office

For the period July 1, 2018 through December 31, 2019





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*Making government work better*

March 3, 2021

District Attorney Michael O'Keefe  
Cape and Islands District Attorney's Office  
3231 Main Street  
Barnstable, MA 02630

Dear Mr. O'Keefe:

I am pleased to provide this performance audit of the Cape and Islands District Attorney's Office. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2018 through December 31, 2019. My audit staff discussed the contents of this report with management of the agency.

I would also like to express my appreciation to the Cape and Islands District Attorney's Office for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump  
Auditor of the Commonwealth

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## LIST OF ABBREVIATIONS

ACL	Audit Command Language
CIDA	Cape and Islands District Attorney's Office
DAMION	District Attorney Management Information Office Network
JJPAD	Juvenile Justice Policy and Data Board
MDAA	Massachusetts District Attorney Association
OSA	Office of the State Auditor
VWA	victim witness advocate
YDP	Youthful Diversion Program

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## **EXECUTIVE SUMMARY**

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Cape and Islands District Attorney's Office (CIDA) for the period July 1, 2018 through December 31, 2019. In this performance audit, we examined CIDA's compliance with Section 5 of Chapter 258B of the General Laws (see [Appendix](#)) regarding the Victim Witness Assistance Program, as well as its administration of the Youthful Diversion Program (YDP). There are no regulatory requirements for CIDA to operate YDP, so our examination focused on existing CIDA practices.

Our audit revealed no significant instances of noncompliance by CIDA that must be reported under generally accepted government auditing standards.

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## OVERVIEW OF AUDITED ENTITY

The Cape and Islands District Attorney's Office (CIDA) was established under Sections 12 and 13 of Chapter 12 of the Massachusetts General Laws, which give the district attorney the power to represent the Commonwealth in the prosecution of criminal cases and defense of civil cases.

CIDA is one of 11 district attorneys' offices in the Commonwealth and represents the state in the prosecution of criminal offenses that occur within its jurisdiction. CIDA's jurisdiction covers Barnstable, Dukes, and Nantucket Counties, which include the islands of Nantucket and Martha's Vineyard. CIDA's principal administrative and accounting office is in Barnstable Village; it has additional offices in Barnstable, Edgartown, Falmouth, Nantucket, and Orleans. As of December 31, 2019, CIDA had 59 employees: 22 prosecutors / assistant district attorneys; 13 victim witness advocates (VWAs); 2 staff members in the office's diversion programs, including the Youthful Diversion Program (YDP) discussed below; and 22 other staff members who aid in the operation of the office.

According to its internal control plan, CIDA's primary mission is "to ensure the peace and safety of the community by speedy prosecution of major offenders as well as by expediting the handling of minor criminal matters."

### Victim Witness Assistance Program

CIDA operates a Victim Witness Assistance Program, under which VWAs are present in court during arraignments and other court events. They notify victims or witnesses of results by phone, email, or letter in accordance with Section 5 of Chapter 258B of the General Laws, which requires CIDA to provide information to victims and witnesses of crimes about the court process, court events, and available services. Section 5 specifically states that the following services shall be provided if requested by a victim or witness: court appearance notification; information related to witness fees, victim compensation, and restitution; escort and transportation; case process notification; employer intercession; expedited return of property; protection; family support, including care of children and other dependents; waiting facilities; and social service referrals.

### YDP

According to CIDA's *Diversion Programs* brochure, the office operates YDP, whose staff "work[s] with individuals charged with minor and misdemeanor offenses by offering an alternative to the court

process.” The program is primarily for individuals between the ages of 18 and 21 who have been involved with alcohol- or drug-related incidents, but CIDA may consider other minor misdemeanor offenses. YDP’s staff screens participants to determine their specific needs. Then a contract is created and signed, outlining requirements for completion. Contract requirements can include educational classes, essays, letters of apology, community service, and counseling. Upon completion of all contract requirements, the charges are dropped.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Cape and Islands District Attorney's Office (CIDA) for the period July 1, 2018 through December 31, 2019.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Does CIDA ensure that all program requirements are fulfilled and documented for participants in the Youthful Diversion Program (YDP)?	Yes
2. Do victims and witnesses involved in cases that are disposed of in the Superior Court receive assistance throughout the court process from CIDA, as required by Section 5 of Chapter 258B of the General Laws?	Yes

To achieve our objectives, we gained an understanding of CIDA's internal control environment related to the objectives by reviewing applicable agency policies and procedures, as well as conducting inquiries with CIDA management.

In addition, we performed the following audit procedures to obtain sufficient audit evidence to address our audit objectives.

### YDP

To conduct our testing of YDP, we obtained a list of all cases in the program for our audit period. Using Audit Command Language (ACL), we selected a nonstatistical random sample of 25 of these 89 YDP cases. For each case, we obtained the case file and confirmed that it contained a signed contract, a completed intake form, a police report, a certificate of program completion, and other documents to



prove completion of the contract requirements. (The other documents included case notes from the diversion staff, certificates for education classes attended, proof of community service performed, essays, and proof of counseling and assessments.)

### **Victim Witness Assistance Program**

To conduct our testing of the Victim Witness Assistance Program, we obtained a list of all 76 Superior Court cases that had a victim and/or witness and had been disposed of during our audit period. Using ACL, we selected a nonstatistical random sample of 25 of the 76 cases. Because of the sensitivity involved with the cases, we conducted our testing by reviewing each case file in the presence of CIDA staff members. Each case file included court filings, case notes created by victim witness advocates (VWAs), and notifications sent by VWAs to victims or witnesses regarding the case. As previously stated, VWAs communicate with victims and witnesses by phone, email, or letter. We used the documents and case notes in the case files to determine whether VWAs provided any services requested by victims or witnesses pursuant to Section 5 of Chapter 258B of the General Laws.

### **Data Reliability Assessment**

We obtained the previously mentioned lists from CIDA's District Attorney Management Information Office Network case management system for the period July 1, 2018 through December 31, 2019.

To confirm the completeness and accuracy of the list of YDP cases, we traced a random sample of 20 cases from the list to the hardcopy case files and selected 20 random case files to trace back to the list. We also conducted tests to identify any hidden columns or rows on the list to determine the integrity of the information on the list.

To confirm the completeness and accuracy of the list of Superior Court cases that had been disposed of and had involved victims and/or witnesses, we traced a random sample of 20 cases from the list to the case files and selected 20 random case files to trace back to the list. In addition, we conducted tests to identify any hidden columns or rows on the list to determine the integrity of the information on the list.

We have determined that the lists are sufficiently reliable for our audit purposes.

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## OTHER MATTERS

### **The Cape and Islands District Attorney's Office needs to update its case management system.**

The Cape and Islands District Attorney's Office (CIDA) currently uses the District Attorney Management Information Office Network (DAMION) case management system to perform a variety of tasks, including maintaining case, victim, and witness information and tracking court events. DAMION was implemented by the Massachusetts District Attorney Association (MDAA)<sup>1</sup> for all 11 district attorneys' offices. Each office can customize the system to some extent to meet its own needs.

In April 2018, the Governor signed Chapter 69 of the Acts of 2018 into law. Section 89(b) of Chapter 69 created the Juvenile Justice Policy and Data Board (JJPAD). JJPAD is charged with collecting juvenile offender data, including age, gender, racial or ethnic category, and type of crime, from criminal justice agencies that have contact with juvenile offenders. The legislation states,

*The board shall analyze and make a recommendation on the feasibility of the [Office of the Child Advocate, which is charged with ensuring the wellbeing of juveniles] creating and annually updating an instrument to record aggregate statistical data for every contact a juvenile has with . . . criminal justice agencies.*

In June 2019, in accordance with Section 89(b) of Chapter 69, JJPAD issued a report titled *Improving Access to Massachusetts Juvenile Justice System Data*. The report expressed serious concerns about district attorneys' ability to use DAMION to give JJPAD all the information it needs to meet its responsibilities:

*The database used by the District Attorneys ("DAMION") is several decades old and not currently capable of tracking all of the data requested by the Legislature.*

Further, CIDA officials told the Office of the State Auditor (OSA) that MDAA had told staff members at each district attorney's office that the software company that provided technical support for DAMION might stop doing so in the near future. However, no specific date has been identified.

Based on these facts, if CIDA does not replace its case management system, it may soon be unable to meet its operational needs or give JJPAD the information it needs to comply with Chapter 69 of the Acts

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1. MDAA was established under Section 20D of Chapter 12 of the Massachusetts General Laws to provide administrative and technological support to each of the 11 district attorneys' offices in the Commonwealth.

of 2018. Therefore, OSA believes that CIDA needs to continue to work with MDAA and the other district attorneys' offices to implement a new case management system as soon as possible.

## APPENDIX

### Section 5 of Chapter 258B of the Massachusetts General Laws

*Each district attorney shall create and maintain, to the extent reasonably possible and subject to the available resources, a program to afford victims and witnesses of crimes the rights and services described in this chapter. Those services shall include but not be limited to the following:*

- (a) court appearance notification services, including cancellations of appearances;*
- (b) informational services relative to the availability and collection of witness fees, victim compensation and restitution;*
- (c) escort and other transportation services related to the investigation or prosecution of the case, if necessary;*
- (d) case process notification services;*
- (e) employer intercession services;*
- (f) expedited return of property services;*
- (g) protection services;*
- (h) family support services including child and other dependent care services;*
- (i) waiting facilities; and*
- (j) social service referrals.*