



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

Making government work better

Official Audit Report – Issued June 17, 2021

Middlesex County District Attorney's Office

For the period July 1, 2018 through June 30, 2020





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Suzanne M. Bump

Making government work better

June 17, 2021

District Attorney Marian Ryan
Middlesex County District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

Dear District Attorney Ryan:

I am pleased to provide this performance audit of the Middlesex County District Attorney's Office. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2018 through June 30, 2020. My audit staff discussed the contents of this report with your office's management staff.

I would also like to express my appreciation to the Middlesex County 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 "SMB", written over a light blue circular watermark.

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

ADA	Assistant District Attorney
DAMION	District Attorney Management Information Office Network
JJPAD	Juvenile Justice Policy and Data Board
MDAA	Massachusetts District Attorney Association
MDAO	Middlesex County District Attorney's Office
VWAP	Victim Witness Assistance Program
YADP	Young Adult Diversion Program

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 Middlesex County District Attorney's Office (MDAO) for the period July 1, 2018 through June 30, 2020. In this performance audit, we examined MDAO's compliance with Section 5 of Chapter 258B of the General Laws for the Victim Witness Assistance Program, as well as its administration of the Young Adult Diversion Program (YADP). There are no legislative or regulatory requirements for the operation of YADP, so our examination focused on existing MDAO policies and procedures.

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

OVERVIEW OF AUDITED ENTITY

Established by Sections 12 and 13 of Chapter 12 of the Massachusetts General Laws, the Middlesex County District Attorney's Office (MDAO) prosecutes criminal cases in Middlesex County. MDAO serves Middlesex County from the following locations: the Middlesex County Superior Courts (Woburn and Lowell), District Courts (Ayer, Cambridge, Concord, Framingham, Lowell, Malden, Marlborough, Natick, Newton, Somerville, Waltham, and Woburn), Juvenile Courts (Cambridge, Framingham, Lowell, and Waltham), and the Massachusetts Appeals and Supreme Judicial Courts (for appellate work). MDAO's main administrative and accounting office is in Woburn. For fiscal years 2019 and 2020, MDAO received appropriations totaling \$17,173,489 and \$18,893,167, respectively, to fund its administrative operations. It also received appropriations totaling \$556,816 in fiscal year 2019 and \$562,384 in fiscal year 2020 for the overtime costs of state police officers assigned to it. MDAO operates many programs to serve its communities. Our audit reviewed the Young Adult Diversion Program (YADP) and the Victim Witness Assistance Program (VWAP).

YADP

YADP began as a pilot program in Malden District Court in April 2016, and MDAO expanded it to the entire county in July 2016. The program provides individualized services to young adults between the ages of 18 and 26, allowing them to complete a remedial program and/or community service as an alternative to prosecution. YADP includes offenses considered misdemeanors or felonies for which a young adult could be prosecuted in a district court, and it is offered to young adults who are willing to accept personal responsibility and participate in the program. When determining whether to admit a young adult, YADP also considers his/her criminal history; the likelihood of his/her cooperation and agreement with the program's services, terms, and conditions; the nature of the particular criminal activity; input from the police and victim/s; and any background information offered by the young adult. YADP is not available for offenses involving the possession/use of firearms, school-based threats, certain victim crimes (e.g., sexual assault, intimate partner domestic violence), or certain motor vehicle offenses. Enrollment in YADP is at the District Attorney's discretion. The administration of YADP is not governed by statute and did not receive separate funding during the audit period.

Participation in YADP is voluntary and begins (1) by a police referral before the seeking of a criminal complaint or after an arrest or (2) by a referral from an Assistant District Attorney (ADA) after the

issuance of a criminal complaint but before arraignment. A young adult diversion coordinator reviews each case, makes contact with the interested parties, and discusses with a diversion director whether to accept the young adult into the program.

Once the young adult is accepted, s/he meets with the young adult case manager (or another available member of the YADP team); the defense attorney, if any; and possibly a parent or other supportive adult, at the young adult's discretion. The meeting agenda contains an explanation of the program, information recorded on the intake form (personal/family information), acceptance of responsibility, discussion of facts and decision-making, discussion of potential conditions/programs, and a section-by-section review and signing of the YADP Agreement. The agreement is usually for a six-month period but may be longer.

The YADP team is available to help locate and secure a community service placement if it is part of the agreement, as well as to help the young adult find a social service counselor, enroll in any required programming, and/or meet any other requirements set forth in the agreement (e.g., employment). During the term of the agreement, the YADP team collects from the young adult required documentation (e.g., a certificate of completion from an outside program, a letter of apology, an essay).

The young adult is monitored by YADP personnel during participation in the program. The young adult case manager maintains and reviews documentation of completion of diversion requirements set forth in the agreement, using the case tracking sheet. Upon completion of the term of the agreement, and a review of the diversion requirements, the young adult case manager sends (or causes to be sent) a disposition letter to the young adult with a determination of the outcome of the program.

If the young adult successfully completes the requirements set forth in the agreement, the case is closed without prosecution and no criminal record is created. If the young adult withdraws or fails to successfully complete diversion, the case may, at the ADA's discretion and with input from the YADP team, proceed to arraignment and court process. MDAO measures YADP's success rate based on the percentage of young adults who successfully complete their diversion requirements.

VWAP

In accordance with Section 5 of Chapter 258B of the General Laws (see [Appendix](#)), VWAP provides information to victims and witnesses of crimes about the court process and their rights. Section 5

specifically states that the following services shall be provided to 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. A victim witness advocate is present in court during arraignments to identify any victims and/or witnesses. Advocates continue their contact with victims and/or witnesses throughout the court process in person or by letter, email, or phone to ensure that they receive proper notification of court events, support, and/or services to which they are entitled pursuant to Chapter 258B of the General Laws.

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 Middlesex County District Attorney's Office (MDAO) for the period July 1, 2018 through June 30, 2020.

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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and 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 MDAO's Young Adult Diversion Program (YADP) assess the needs of, provide professional services to, and actively monitor offenders to ensure that program requirements are fulfilled, documented for young adults who have completed the program, and compliant with program policies and procedures?	Yes
2. Does MDAO's Victim Witness Assistance Program (VWAP) provide assistance throughout the Superior Court process to victims and witnesses of crimes as required by Section 5 of Chapter 258B of the General Laws?	Yes

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

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

YADP

For YADP, we selected a random, nonstatistical sample of 40 case files from a population of 442 cases. We reviewed the case files to ensure the following:

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- To determine whether the YADP coordinator/director conducted an assessment of the needs of program participants, we verified that each case file contained documentation of referral from the police, an Assistant District Attorney (ADA), or a defense attorney.
 - To determine whether each young adult had signed the YADP Agreement for acceptance into the program, we verified that each agreement had been signed by the young adult and by YADP personnel.
 - To determine whether professional services had been provided to each young adult, we verified the presence of correspondence between the providers, the program participant, and the young adult case manager.
 - To determine whether MDAO actively monitored each case, we verified the existence of documented correspondence between the young adult, the young adult case manager, and service providers, such as outside social workers or psychologists. The correspondence consisted of phone logs, emails, and letters.

To ensure that program requirements were fulfilled and were compliant with program policies and procedures, we verified that each case file contained a copy of the referral letter, a case contact log, a case intake form, and a disposition letter to the young adult, and we verified that copies had been provided to the ADA and the police department that initiated the original complaint.

VWAP

To determine whether VWAP cases were prepared and services were provided in accordance with Section 5 of Chapter 258B of the General Laws, we selected a random, nonstatistical sample of 40 case files from a population of 423 Superior Court cases for the audit period.

We examined the 40 VWAP case files to determine the types of crime and whether required services were provided to victims throughout the court process. Further, we determined whether advocates contacted the victims and witnesses after the alleged crimes.

Data Reliability

From MDAO management, we obtained all YADP cases, and Superior Court cases involving victims or witnesses, from the District Attorney Management Information Office Network case management system for the audit period, July 1, 2018 through June 30, 2020.

To confirm the completeness and accuracy of the list of YADP cases, we traced a sample of cases from the list to the program case files and selected random files to trace back to the list. In addition, we

conducted tests to identify any hidden columns or rows on a spreadsheet of YADP cases to determine the integrity of the information on the list.

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

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

Conclusion

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

OTHER MATTERS

The District Attorney Management Information Office Network needs to be updated.

The Middlesex County District Attorney's Office (MDAO) 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)¹ 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 identity, 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*. In its report, JJPAD 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.

Based on these facts, if MDAA does not update 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 of 2018. Therefore, the Office of the State Auditor believes MDAO needs to continue to work with MDAA and the other district attorneys' offices to implement a new case management system as soon as possible.

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

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.*