



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

Making government work better

Official Audit Report – Issued September 10, 2015

Cape and Islands District Attorney's Office

For the period July 1, 2013 through December 31, 2014





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Making government work better

September 10, 2015

District Attorney Michael O'Keefe
Cape and Islands District Attorney's Office
3231 Main Street
Barnstable, MA 02360

Dear District Attorney 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, 2013 through December 31, 2014. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

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

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|-------|--|
| CIDA | Cape and Islands District Attorney's Office |
| EOAF | Executive Office for Administration and Finance |
| ISA | Interdepartmental Service Agreement |
| JAG | Justice Assistance Grant |
| MMARS | Massachusetts Management Accounting and Reporting System |

EXECUTIVE SUMMARY

The Cape and Islands District Attorney's Office (CIDA) administers criminal law and the defense of civil actions brought against the Commonwealth in Barnstable, Dukes, and Nantucket Counties.

This audit was undertaken to review certain aspects of CIDA operations related to grants, forfeited funds, purchases, and other expenditures to determine whether CIDA had established adequate internal controls and was complying with applicable laws, regulations, policies, procedures, and other guidance in the areas reviewed.

Based on our audit, for the period July 1, 2013 through December 31, 2014, we have concluded that CIDA has established adequate controls and complied with applicable laws, regulations, policies, procedures, and other guidance for the areas we reviewed that related to our audit objectives.

OVERVIEW OF AUDITED ENTITY

The Cape and Islands District Attorney's Office (CIDA) was established under the provisions of Chapter 12, Sections 12 and 13, of the Massachusetts General Laws, which provide for the administration of criminal law and the defense of civil actions brought against the Commonwealth in accordance with Chapter 258 of the General Laws.

CIDA is one of 11 District Attorneys' Offices located throughout the Commonwealth. District Attorneys' Offices represent the Commonwealth in most criminal proceedings brought by complaint in the district courts, as well as indictment in the superior courts. District Attorneys' Offices also represent the Commonwealth before grand juries and assist with the investigation of a variety of criminal activities as well as victim/witness assistance services. Further, District Attorneys' Offices provide outreach services to local communities and schools, discussing topics such as bullying/harassment, Internet and cyber-safety programs, drug and alcohol use, identity theft, and domestic violence.

As of December 31, 2014, CIDA had 55 employees, including 23 prosecutors / assistant district attorneys, with offices in Barnstable, Falmouth, and Orleans. CIDA's jurisdiction covers all of Barnstable, Dukes, and Nantucket Counties and includes court cases that are adjudicated in various district courts in the aforementioned towns as well as on the islands of Nantucket and Martha's Vineyard. CIDA's principal administrative and accounting office is located in West Barnstable.

For the fiscal year ended June 30, 2014, CIDA received state maintenance appropriations totaling \$4,092,276 (\$3,813,541 to fund its administrative operations and \$278,735 for the overtime costs of state police officers assigned to CIDA). For the fiscal year ended June 30, 2015, CIDA received state maintenance appropriations totaling \$4,278,685 (\$3,988,801 to fund its administrative operations and \$289,884 for the overtime costs of state police officers assigned to CIDA). From July 1, 2014 through the end of our audit period, December 31, 2014, CIDA expended \$1,970,186 of its state maintenance appropriation (\$1,859,379 for administrative operations and \$110,807 for overtime costs of state police officers assigned to CIDA). Pursuant to its mission of administering the Commonwealth's criminal laws, CIDA deposited \$99,462 of court-ordered forfeited funds with the Office of the State Treasurer during the audit period. Each case must be fully adjudicated before any related assets can be considered forfeited. CIDA expended a total of \$160,336 from the forfeited-fund revenue account, which is an aggregate account, during our audit period.

During fiscal year 2013, CIDA entered into an Interdepartmental Service Agreement (ISA) with the state's Executive Office for Administration and Finance (EOAF), under which EOAF would pay the costs for CIDA to investigate, and respond to, a breach at the Dr. William A. Hinton Laboratory. This ISA was amended to include funding for approved expenditures related to the laboratory through fiscal years 2014 and 2015, for a total amount of \$224,843. The ISA was created as a result of Governor Deval Patrick's order for immediate closure of the laboratory on August 29, 2012, due to a breach caused by a former chemist who was criminally charged on September 28, 2012. As of December 31, 2014, CIDA had expended a total of \$161,413 from the ISA, of which \$13,564 was expended during our audit period.

During fiscal year 2014, CIDA entered into an ISA with the state's Executive Office of Public Safety and Security, under which CIDA would receive \$47,214 in funding to support its Diversion Program. As of December 31, 2014, CIDA had expended a total of \$47,200 from this ISA. CIDA used these funds for costs incurred for youth admitted to the Diversion Program and screened for potential substance abuse and depression. The Diversion Program offers first-time juvenile offenders an alternative to the court process. In this program, according to its website,

[Juveniles] voluntarily participate in appropriate counseling/education and community service projects. If a juvenile successfully completes the program the District Attorney will not prosecute the case and there will be no court record of that offense.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, 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, 2013 through December 31, 2014. In our review of CIDA's costs for the investigation related to the breach at the Dr. William A. Hinton Laboratory at the State Laboratory Institute, it was also necessary for us to review information and expenditure data outside this audit period.

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 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. Are internal controls over state forfeited funds adequate to ensure that revenue and related expenditures are processed properly; are supported by source documentation; and are in compliance with Chapter 94C, Section 47, of the General Laws? | Yes |
| 2. Are internal controls over the federal Justice Assistance Grant (JAG) adequate to ensure that revenue and expenditures are processed properly and that reporting to the funding agency is timely and complete? | Yes |
| 3. Were supplies and equipment that were purchased during our audit period, including items purchased with forfeited funds, properly safeguarded? | Yes |
| 4. Did CIDA expend the appropriation related to the Dr. William A. Hinton Laboratory in compliance with the terms and conditions of the Interdepartmental Service Agreement (ISA) associated with the appropriation? | Yes |

To achieve our audit objectives, we gained an understanding of the internal controls we deemed significant to our audit objectives and evaluated the design and effectiveness of those controls. In addition, we performed the following procedures:

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- We interviewed CIDA's chief financial officer, first assistant district attorneys, and other staff members and reviewed relevant documents, statutes, and regulations as well as CIDA's policies, procedures, and accounting records.
 - We reviewed our prior audit report (No. 2012-1263-3J) to determine whether any weaknesses in internal controls had been identified that pertained to our current audit objectives.
 - We selected transactions by using non-statistical, random sampling, in order to eliminate bias by giving all items in the population an equal chance of being chosen, for our examination of forfeited-fund revenue and expenditures. Therefore, we did not project the results of our samples to the population. More specifically,
 - For state forfeited-fund revenue, we selected a non-statistical random sample of 25 state forfeited-fund revenue deposits from a population of 120 in our audit period to determine whether revenue was processed properly; supported by source documentation; and compliant with Chapter 94C, Section 47, of the General Laws.
 - For state forfeited-fund expenditures, we selected a non-statistical random sample of 25 state forfeited-fund expenditures from a population of 213 in our audit period to determine whether expenditures were processed properly; supported by source documentation; and compliant with Chapter 94C, Section 47, of the General Laws.
 - We examined CIDA's JAG for our audit period to determine whether revenue and expenditures related to this grant were processed properly and whether reporting to the funding agency was timely and complete.
 - For supplies and equipment, including items purchased with forfeited funds, we selected 100% of the 50 items purchased during our audit period to determine whether they had been safeguarded properly.
 - For the Dr. William A. Hinton Laboratory, we reviewed data outside our audit period because the CIDA appropriation was for a three-year period and the only expenditures made during our audit period were related to payroll. We reviewed data from fiscal year 2013 to determine whether the appropriation for investigating, and responding to, the laboratory breach was expended in compliance with ISA requirements.

Based on our previous data-reliability assessment of the information-technology controls of the state's Massachusetts Management Accounting and Reporting System (MMARS),¹ and based on our current data-reliability work (which included comparing CIDA's revenue amounts for agreement with MMARS, verifying through observation that monthly bank reconciliations were performed, interviewing CIDA

1. In 2014, the Office of the State Auditor performed a data-reliability assessment of MMARS. As part of this assessment, we tested general information-technology controls for system design and effectiveness. We tested for accessibility of programs and data, as well as system change management policies and procedures for applications, configurations, jobs, and infrastructure.

officials who were knowledgeable about CIDA's data-input activities, and tracing a sample of deposits to bank statements), we determined that the information obtained from both MMARS and CIDA's accounting system for our audit period was sufficiently reliable for the purposes of this report.