



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

*Making government work better*

Official Audit Report – Issued November 10, 2015

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## Middlesex District Attorney's Office

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





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

*Making government work better*

November 10, 2015

District Attorney Marian T. Ryan  
Middlesex 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 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 court personnel, whose comments are reflected in this report.

I would also like to express my appreciation to the Middlesex 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

ISA	Interdepartmental Service Agreement
MDAO	Middlesex District Attorney's Office
MMARS	Massachusetts Management Accounting and Reporting System
OSA	Office of the State Auditor
OST	Office of the State Treasurer

## **EXECUTIVE SUMMARY**

The Middlesex District Attorney's Office (MDAO) enforces criminal law and handles civil forfeiture and certain civil commitments of persons within the jurisdiction of Middlesex County, including the Ayer, Cambridge, Concord, Framingham, Lowell, Malden, Marlborough, Natick, Newton, Somerville, Waltham, and Woburn District Courts. It also handles cases in the Appeals Court and Supreme Judicial Court.

This audit was undertaken to review certain aspects of MDAO operations related to forfeited funds, expenditures under an Interdepartmental Service Agreement with the Executive Office for Administration and Finance related to the Dr. William A. Hinton Laboratory, and safeguarding of assets, in order to determine whether MDAO had established adequate internal controls and complied 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 MDAO had established adequate controls and complied with applicable laws, regulations, policies, procedures, and other guidance for the areas we reviewed that were related to our audit objectives.

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## OVERVIEW OF AUDITED ENTITY

The Middlesex District Attorney's Office (MDAO) 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.

MDAO 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 providing 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, and domestic violence.

As of December 31, 2014, MDAO had 250 employees, including prosecutors / assistant district attorneys and administrative and program personnel. MDAO serves the largest county in Massachusetts, which has more than 1.5 million residents throughout its 54 cities and towns. There are 12 district courts, and a superior court with two locations, within Middlesex County.

For the fiscal years ended June 30, 2014 and June 30, 2015, MDAO received state appropriations totaling \$14,929,970 and \$15,549,886, respectively. It expensed all of its fiscal year 2014 appropriation, and as of the end of our audit period (December 31, 2014), it had expended \$7,280,891 of its fiscal year 2015 appropriation.

MDAO also operates or funds community-based programs such as alcohol and drug education; nasal-naloxone (Narcan) training; prevention of physical, sexual, and mental abuse; domestic-violence initiatives; victim and witness assistance; safe-baby strategies and child-fatality review; juvenile diversion; outreach to elderly and disabled persons; conviction integrity and post-conviction DNA testing; evidence-storage training; child-support enforcement; and insurance-fraud investigation. These programs are funded by a variety of sources, including MDAO appropriations, Interdepartmental Service Agreements (ISAs), drug-forfeiture funds, grants, and private contributions.

During our audit period, MDAO deposited \$732,906 in court-ordered forfeited funds with the Office of the State Treasurer (OST) and disbursed a total of \$1,211,167 from OST's forfeited-fund account. Before funds can be considered forfeited, a justice must issue a signed court order.

During fiscal year 2013, MDAO entered into an ISA with the Executive Office for Administration and Finance to pay the cost of MDAO analyzing, investigating, and in some cases retrying closed cases in which drug evidence had been tested at the Dr. William A. Hinton Laboratory. Much of this work involved providing evidence to former defendants and the defense bar; responding to post-conviction motions filed by former defendants to withdraw their guilty pleas and/or vacate their convictions; and, where possible, negotiating resolutions. The ISA provided \$652,670 for fiscal years 2013 through 2015. It 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 and was later convicted. As of December 31, 2014, MDAO had expended a total of \$516,407 from the ISA, of which \$297,805 was expended during our audit period.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of the Middlesex District Attorney's Office (MDAO) for the period July 1, 2013 through December 31, 2014.

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. Were internal controls over forfeited funds adequate to ensure that revenue and related expenditures were processed properly; supported by source documentation; and compliant with Chapter 94C, Section 47, of the General Laws?	Yes
2. Were supplies and equipment purchased during the audit period, including items purchased with forfeited funds, being properly safeguarded?	Yes
3. Did MDAO 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 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:

- We interviewed MDAO's chief operating officer, first assistant district attorney, and other staff members and reviewed relevant documents, statutes, and regulations as well as MDAO's policies, procedures, and accounting records.
- We reviewed MDAO's prior audit report (No. 2009-1256-3S) 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

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forfeited-fund revenue and certain purchases of supplies and equipment. Therefore, we did not project the results of our samples to the various populations. More specifically,

- For state forfeited-fund revenue, we selected a non-statistical random sample of 37 receipts from MDAO's cash-receipt records, out of a population of 247, to determine whether forfeited cash was processed properly and in compliance with Chapter 94C, Section 47, of the General Laws and whether it was supported by source documentation.
- For supplies and equipment, including items purchased with forfeited funds, we selected 30 from a population of 172 purchases within our audit period to determine whether the assets purchased were properly safeguarded. We randomly traced 15 of the items to the inventory list and their physical locations. We also reconciled 15 of the purchases from their physical locations to the inventory list on a judgmental basis.
- For state forfeited-fund expenditures, we examined the entire population of checks cashed from a local bank account (544 checks) and chose a judgmental sample of 36 checks based on materiality, expense description, and payee. We also determined that there were 27 payments of more than \$5,000, totaling \$464,261, paid through the state's Massachusetts Management Accounting and Reporting System (MMARS), and we chose the six largest expenditures, which totaled \$158,563. For both samples, we wanted to determine whether the disbursement was properly processed; supported by source documentation; and compliant with Chapter 94C, Section 47, of the General Laws.
- We reviewed payroll expenditures and administrative costs charged to the Dr. William A. Hinton Laboratory appropriation. More specifically, we chose 7 out of 27 non-personnel expenses, and 2 out of 38 payroll charges, on a judgmental basis to determine whether they were compliant with the terms and conditions of the ISA.

Based on OSA's most recent data-reliability assessment of MMARS<sup>1</sup> and our current comparison of source documentation with MMARS information, we determined that the information obtained from the MMARS accounting system for our audit period was sufficiently reliable for the purposes of our audit work.

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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.