



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

*Making government work better*

Official Audit Report – Issued November 29, 2018

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## Northwestern District Attorney's Office

For the period January 1, 2015 through December 31, 2017





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

*Making government work better*

November 29, 2018

District Attorney David E. Sullivan  
Northwestern District Attorney's Office  
1 Gleason Plaza  
Northampton, MA 01060

Dear Mr. Sullivan:

I am pleased to provide this performance audit of the Northwestern District Attorney's Office. This report details the audit objectives, scope, methodology, finding, and recommendation for the audit period, January 1, 2015 through December 31, 2017. 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 Northwestern 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 horizontal line.

Suzanne M. Bump  
Auditor of the Commonwealth

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## LIST OF ABBREVIATIONS

DAMION	District Attorney Management Information Office Network
JDP	Juvenile Diversion Program
NWDA	Northwestern District Attorney's Office
VWAP	Victim Witness Assistance 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 Northwestern District Attorney's Office (NWDA) for the period January 1, 2015 through December 31, 2017.

In this performance audit, we examined NWDA'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 Juvenile Diversion Program (JDP). There are no regulatory requirements for NWDA to operate a JDP, and therefore our review focused on existing NWDA policies and national best practices.

Below is a summary of our finding and recommendation, with links to each page listed.

<b>Finding 1</b> <b>Page <a href="#">8</a></b>	NWDA's JDP does not collect statistical data or conduct post-completion outcome evaluations.
<b>Recommendation</b> <b>Page <a href="#">9</a></b>	NWDA should identify the relevant data that could be used to assess the effectiveness of the JDP, establish a formal process to collect and evaluate this information, and use it to make necessary program enhancements.

### Post-Audit Action

After our audit period, the Criminal Justice Reform Act of 2018 was signed into law by the Governor. The legislation will create a process for mandatory juvenile diversion through the court system for less serious offenses. It will also standardize data collection and tracking of offenders by requiring a unique identifier for each offender to consolidate information about all criminal offenders (including juveniles). At this time, no specific instructions have been provided to NWDA on future data collection and reporting standards.

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## OVERVIEW OF AUDITED ENTITY

Established under Sections 12 and 13 of Chapter 12 of the Massachusetts General Laws, the Northwestern District Attorney's Office (NWDA) administers criminal law and defends civil actions brought against the Commonwealth in accordance with Section 6 of Chapter 258 of the General Laws. NWDA serves Hampshire and Franklin Counties and the town of Athol from four district courts (in Northampton, Belchertown, Greenfield, and Orange), a juvenile court (in Hadley), and two superior courts (in Northampton and Greenfield). NWDA also operates two administrative offices, in Northampton and Greenfield. NWDA's state appropriations for fiscal years 2015, 2016, and 2017 were \$6,001,554, \$6,090,967, and \$6,406,486, respectively. NWDA operates many programs to serve its communities; our audit reviewed the Juvenile Diversion Program (JDP) and the Victim Witness Assistance Program (VWAP). These programs are described below.

### **The JDP**

The JDP offers an alternative to formal prosecution in the juvenile court to certain juvenile offenders between the ages of 7 and 18. The JDP is designed to prevent participating youths from having a criminal record. Juveniles are referred to the JDP by local police officers, schools, court magistrates, probation officers, and sometimes defense lawyers. To successfully complete the program, participants must agree to, and comply with, a contract with specific deliverables. Some examples of contract deliverables are community service, restitution, counseling, essays regarding the effect of participants' actions, compliance with home and school rules, educational programs, letters of apology, and other restorative practices to help participants understand the effects of their actions. A JDP specialist monitors the juvenile's progress by reviewing submitted documentation and keeping in contact with third-party service providers, school resource officers, parents or guardians, and NWDA's Juvenile Court Delinquency Prevention Unit to ensure that all deliverables are feasible and adjustments to deliverables are made as needed. The JDP is discretionary, was not required or governed by statute during the audit period, and does not receive separate funding.

During our audit period, 198 (83%) of the program's 239 participants successfully completed all the program's requirements.

## **The VWAP**

The VWAP, in accordance with Section 5 of Chapter 258B of the General Laws (see [Appendix](#)), provides information to victims and witnesses of crime about the court process and their rights. Section 5 of Chapter 258B of the General Laws specifically states that the following services are to 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. A victim witness advocate is present in court during arraignments to identify any victims and/or witnesses. The advocates continue their contact with victims and/or witnesses throughout the court process in person or by letter, email, or phone to ensure that the victims and/or witnesses receive proper notification of court events, support, and/or services to which they are entitled.

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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 Northwestern District Attorney's Office (NWDA) for the period January 1, 2015 through December 31, 2017.

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; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Does NWDA's Juvenile Diversion Program (JDP) do the following?	
a. assess the needs of offenders	Yes
b. define deliverables and expectations	Yes
c. monitor progress	Yes
d. confirm achievement of all deliverables and expectations before program completion	Yes
e. collect statistical data for the purpose of outcome evaluation	No; see Finding <u>1</u>
2. Do victims and witnesses of crimes who choose to participate in NWDA's Victim Witness Assistance Program (VWAP) receive assistance as required by Section 5 of Chapter 258B of the General Laws?	Yes

To achieve our objectives, we obtained an understanding of NWDA's internal controls that we considered significant to our audit objectives by reviewing policies, procedures, laws, and regulations and interviewing management. We examined the design and effectiveness of controls regarding the completion of intake forms, definition of the due dates for deliverables in the JDP, and issuance of letters after arraignments for victims and witnesses in the VWAP.



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

## **The JDP**

We obtained a list of all JDP cases with intake dates from January 1, 2015 through December 31, 2017, totaling 239 cases, from the District Attorney Management Information Office Network (DAMION) case-management system. We segregated the 239 cases from the list into four completion status groups: "successful," "failed," "ongoing," and "other."

We identified 198 cases with a "successful" status. A "successful" status means that all contract deliverables were completed within an agreed-upon timeframe. Using a nonstatistical sampling method, we judgmentally selected a sample of 25 cases out of 198. For the 25 cases selected, we acquired the case files from NWDA staff members who were responsible for administering the JDP. To determine whether participants' needs were adequately assessed, we inspected the Juvenile Diversion Program Intake Reports used by NWDA to confirm that each one was properly completed by the parent or guardian, the juvenile, and NWDA personnel. To determine whether deliverables and expectations were defined, we inspected the original contract language and any amendments to the contract. To evaluate NWDA's monitoring of participants' progress, we inspected the documentation NWDA maintained regarding the extent to which participants completed program requirements. To determine the extent to which participants successfully completed the program, we inspected documents in case files to substantiate completion of program requirements, motions to dismiss filed with courts, and notification to participants that the program was successfully completed.

Cases with a "failed" status totaled 19. A "failed" status means that the participant failed to complete some or all program deliverables within the timeframe specified by the contract. Using a nonstatistical sampling method, we judgmentally selected a sample of 5 cases out of 19. For the five cases selected, we acquired the case files from NWDA staff members who were responsible for administering the JDP. To determine whether participants' needs were adequately assessed, we inspected the Juvenile Diversion Program Intake Reports used by NWDA to confirm that each one was properly completed by the parent or guardian, the juvenile, and NWDA personnel. To determine whether deliverables and expectations were defined, we inspected the original contract language and any amendments to the contract. We also determined whether contracts were properly executed. To evaluate NWDA's monitoring of participants' progress, we inspected documents in case files to determine whether

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assistance was provided to participants to address any barriers to program completion. To confirm that the five participants in our sample failed to achieve all the deliverables specified in their contracts, we inspected motions to continue filed with courts and notifications of failure sent to parents or guardians and to participants by the NWDA JDP staff.

Cases with an "ongoing" status totaled 10. An "ongoing" status means the participant started the program during our audit period and had not completed it by December 31, 2017. Using a nonstatistical sampling method, we judgmentally selected a sample of 5 cases out of 10. For the five cases selected, we acquired the case files from NWDA staff members who were responsible for administering the JDP. To determine whether participants' needs were adequately assessed, we inspected the Juvenile Diversion Program Intake Reports used by NWDA to confirm that each one was properly completed by the parent or guardian, the juvenile, and NWDA personnel. To determine whether deliverables and expectations were defined, we inspected the original contract language and any amendments to the contract. To evaluate NWDA's monitoring of participants' progress, we inspected documents in case files to substantiate completion of program requirements, documentation addressing barriers to completion, and documentation to support case dismissal or nolle prosequi<sup>1</sup> status. To confirm that the cases were active as of December 31, 2017, we inspected file contents from after our audit period, including documented correspondence; copies of motions filed with the court; documentation confirming case dismissal or nolle prosequi status; motions filed with the court; and, if applicable, notifications of final program status sent to parents or guardians and to participants.

We identified 12 cases with "other" status; these were cases that NWDA decided not to prosecute. Using a nonstatistical sampling method, we judgmentally selected a sample of 4 of the 12 cases. For the four cases selected, we acquired the case files from NWDA staff members who were responsible for administering the JDP. To determine whether participants' needs were adequately assessed, we inspected the Juvenile Diversion Program Intake Reports used by NWDA to confirm that each one was properly completed by the parent or guardian, the juvenile, and NWDA personnel. To determine whether deliverables and expectations were defined, we inspected the original contract language and any amendments to the contract. To evaluate NWDA's monitoring of participants' progress, we inspected documents in the case files to determine whether NWDA documented that each program component was completed by the date specified in each participant's contract. To confirm that

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1. Nolle prosequi status means the prosecution has decided to drop the charges against the defendant.

participants achieved deliverables through the date the charges were dropped, we inspected completion forms for program requirements, examined motions filed with the court, and confirmed that participants were informed of dismissal of charges and that there was proper documentation to support case dismissal or nolle prosequi status.

In addition, to determine whether NWDA collects statistical data for the purpose of outcome measurement, we conducted an interview with NWDA officials.

We used nonstatistical sampling methods for testing and therefore did not project the results of our testing to the population.

## **The VWAP**

We obtained a list from DAMION of all 7,240 cases with victims and/or witnesses identified for the audit period. The list included victims and witnesses who requested services, as well as those who were eligible for services but did not request them. Using a statistical sampling method and Audit Command Language software, with a confidence level of 95% and tolerable error rate of 5%, we selected a random sample of 60 out of 7,240 cases. We obtained the case file for each selected case, including a victim witness case sheet, a case progress report, hardcopy documents related to program requirements, and a case notes sheet. Specifically, we confirmed the type of services requested, and we reviewed supporting documents for all services provided and determined whether NWDA complied with Section 5 of Chapter 258B of the General Laws.

## **Data Reliability Assessment**

We reviewed certain general information technology controls over DAMION to determine the reliability of the data therein. In addition, we ran data integrity tests and performed tests for accuracy and completeness. We determined that the data were sufficiently reliable for the purposes of our audit work.

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## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. The Northwestern District Attorney's Office's Juvenile Diversion Program does not collect statistical data or conduct post-completion outcome evaluations.

Although the Northwestern District Attorney's Office (NWDA) effectively administers many aspects of its Juvenile Diversion Program (JDP), including assessing the needs of participants, defining deliverables and expectations, monitoring participants' progress, and confirming completion of agreed-upon program requirements, it does not collect data or conduct post-completion outcome evaluations to determine the program's effectiveness. As a result, NWDA is limited in its ability to measure the success of the program and determine whether any changes to it are necessary.

#### Best Practices

The *Juvenile Diversion Guidebook* prepared by the Models for Change<sup>2</sup> Juvenile Diversion Workgroup states,

*Every diversion program should have a way to determine whether it is meeting its goals and objectives. . . . A program can select its most important objective(s) and focus on obtaining data related to their evaluation.*

The guidebook suggests evaluating outcomes in the following areas: "Reduction in Recidivism," "Provision of Services," "Reduction in System Costs," "Increased Successful Outcomes for the Child," "Increased Accountability," "Reduction in Labeling and Its Effects on Delinquency," and "Reduction in Unnecessary Social Control."

The goal of the JDP, as stated in NWDA's JDP Policies and Procedures, is as follows:

*To offer intervention at an early stage to eligible juvenile offenders in order to increase safety, accountability, competency development, improve outcomes, and decrease the likelihood of further offenses.*

To determine whether this goal is being met, the JDP would need to collect and analyze data. In fact, the *Juvenile Diversion Guidebook* states, "Program evaluation typically requires a systematic way of collecting data throughout some period of time of the diversion program's operation."

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2. Models for Change is a multistate initiative focused on promoting the advancement of juvenile justice reform, funded by the John D. and Catherine T. MacArthur Foundation.

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## Reasons for Issues

NWDA officials stated that there are no data collection efforts to measure outcomes because NWDA lacks the time and staff to perform these tasks.

## Recommendation

NWDA should identify the relevant data that could be used to assess the effectiveness of the JDP, establish a formal process to collect and evaluate this information, and use it to make necessary program enhancements.

## Auditee's Response

*We appreciate the Auditor's recognition that the Northwestern District Attorney's Office Juvenile Diversion Program (NWDA-JDP) effectively assesses the needs of participants, monitors participants' progress, and confirms completion of agreed-upon program requirements.*

*We disagree, however, with the Auditor's finding that the NWDA-JDP does not collect data or conduct post-completion outcome evaluations to determine the effectiveness of the program and as a result, the NWDA is limited in its ability to measure the success of the program.*

*The central goal of the NWDA-JDP as stated in its Policies and Procedures Manual is:*

To offer intervention at an early stage to eligible juvenile offenders in order to increase safety, accountability, competency development, improve outcomes, and decrease the likelihood of further offenses.

*We believe that we meet the objectives contained in this goal, by effectively measuring outcomes for juveniles who participate in the program; and by maintaining data on these outcomes. Our central criteria for measuring a successful outcome is focused on the development and completion of an individualized diversion plan that is restorative for victims, juveniles, their families, and their communities. Our approach incorporates the core principles contained in The Juvenile Diversion Guidebook—Models for Change which the Auditor presents as Best Practices for Juvenile Diversion Programs:*

Fairness (for youth, families, victims, and communities), the recognition of developmental difference between youth and adults, individual differences (in development, culture, strengths and needs), youth potential, responsibility, and safety (rights of individuals and communities to feel safe). (*Juvenile Diversion Guidebook—Models for Change at p. 69*)

*It should be noted that the Juvenile Diversion Guidebook—Models for Change suggests that a program can select its most important objective(s) and focus on obtaining data related to those objectives.*

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*The NWDA-JDP collects data and assesses its effectiveness in meeting its core goals and objectives in many ways, including: comprehensive assessments of a juvenile and development of an individualized diversion plan that is monitored and the outcomes are tracked; collection and review of parent and child post-completion surveys; regular assessment and review of the program within the organizational structure of our office; staff participation in professional development in best practices (e.g. Motivational Interviewing, Restorative Justice, Mental Health First Aid, [Adverse Childhood Experiences] and Trauma Informed Practices, Recovery Coach Training, and [Screening, Brief Intervention and Referral to Treatment]); collaborative work with community partners; and through data collection within internal office databases.*

*That being said, we view the Auditor's report as an opportunity to explore the expansion of the NWDA-JDP's definition of successful outcomes to include the collection of more long term data beyond the date on which a diversion case is closed. More specifically, we would like to investigate data collection options which will help us improve the diversion program's ability to assess our effectiveness in "decreasing the likelihood of further offenses." Our concern in this area lies in the extraordinary nuance of this type of data. For example, the duration of the diversion program is relatively short and once the child has successfully completed the diversion program, their involvement with our office is over. If the juvenile reoffends, there is no way to determine what factors may have influenced his or her return to the criminal justice system. We expect that the new Juvenile Justice Policy and Data Board created by the Criminal Justice Reform Act of 2018 will provide guidance regarding effective data collection methods.*

## **Auditor's Response**

We do not dispute that NWDA's JDP is structured so that program participants are effectively assessed and provided with individualized programs to better ensure that they complete the program. Although participants' successful completion of the program is certainly an important measure of how effectively it is administered, we believe that NWDA should also consider collecting data and measuring the outcomes achieved by the program, as suggested in the *Juvenile Diversion Guidebook*.

Based on its response, NWDA is taking measures to address our recommendation.

## 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.*