



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

*Making government work better*

Official Audit Report – Issued March 23, 2018

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## Worcester County District Attorney's Office— Middle District

For the period July 1, 2014 through December 31, 2016





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

*Making government work better*

March 23, 2018

District Attorney Joseph D. Early, Jr.  
Worcester County District Attorney's Office—Middle District  
225 Main Street  
Worcester, MA 01608

Dear Mr. Early:

I am pleased to provide this performance audit of the Worcester County District Attorney's Office—Middle District. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2014 through December 31, 2016. My audit staff discussed the contents of this report with officials from your office, whose comments are reflected in this report.

I would also like to express my appreciation to the Worcester County District Attorney's Office—Middle District 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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## 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 Worcester County District Attorney's Office—Middle District (WCDA) for the period July 1, 2014 through December 31, 2016. When reviewing the Young Adult Diversion Program, we extended our audit period to begin June 1, 2013. When reviewing the Victim/Witness Assistance Program, we extended our audit period to include the period October 4, 2013 through March 30, 2017.

In this performance audit, we examined WCDA's activities related to the administration of its Young Adult Diversion Program, Victim/Witness Assistance Program, and Drug Forfeiture Community Reinvestment Program. Unlike the Victim/Witness Assistance Program and Drug Forfeiture Community Reinvestment Program, WCDA's Young Adult Diversion Program is discretionary, is not governed by statute, and does not receive separate funding. Therefore our assessment of this program was based on its stated goals, national best practices, and general governmental operating standards.

Below is a summary of our findings and recommendations, with links to each page listed.

<b>Finding 1a</b> <b>Page <a href="#">8</a></b>	WCDA should consider establishing a process to assess the effectiveness of the Young Adult Diversion Program in reducing recidivism.
<b>Finding 1b</b> <b>Page <a href="#">9</a></b>	The Young Adult Diversion Program's files did not have documentation that all participants completed all program requirements.
<b>Finding 1c</b> <b>Page <a href="#">10</a></b>	WCDA did not require most Young Adult Diversion Program participants to complete online education programs.

**Recommendations**  
**Page 11**

1. WCDA should identify the relevant data that could be used to assess the effectiveness of its Young Adult Diversion Program, establish a formal process to collect and evaluate this information, and use it to make any necessary program enhancements. If WCDA believes it needs more resources to perform these functions, including additional personnel, it should try to identify existing resources that could be allocated to these activities and/or request additional funding from the Legislature for this purpose.
2. WCDA should amend its Programmatic Policies to require written documentation to substantiate the completion of the Young Adult Diversion Program.
3. WCDA should maintain all such documentation in each participant's file. Specifically, it should obtain certificates of completion for online programs and have authorized community service personnel complete and sign a document stating that the participant has completed community service.
4. WCDA should expand its current online education programs to include all types of criminal offenses in the Young Adult Diversion Program. For criminal offenses covered by the Young Adult Diversion Program that have no online education programs, WCDA should offer an in-person program.
5. WCDA should remove barriers to accessing online education programs by determining whether a different vendor offers similar programs in different languages and suggesting alternatives (such as public libraries) to individuals who state that they do not have access to a computer.

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## OVERVIEW OF AUDITED ENTITY

The Worcester County District Attorney's Office—Middle District<sup>1</sup> (WCDA) was established under Sections 12 and 13 of Chapter 12 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. WCDA serves 4 cities and 56 towns in central Massachusetts and has 11 district courts, of which 4 have 6-member jury-trial sessions. WCDA represents the Commonwealth at bail hearings, at commitment proceedings related to criminal matters, at rendition proceedings, and during the presentation of evidence in all inquests, and it assists in the investigation of a variety of criminal activities. In addition to its legal and investigatory activities, WCDA operates several programs that provide educational services to the public as well as services to individuals involved in the criminal justice system. The programs subject to our audit are described below.

The Young Adult Diversion Program is available to first-time offenders between the ages of 17 and 22 who are charged with certain nonviolent crimes, such as possession of alcohol, purchasing or attempting to purchase alcohol, possession of an open container of alcohol, disturbing the peace, disorderly conduct, and shoplifting (when it is a first offense). Program participants can postpone their arraignments for 90 days while completing the requirements of the program, which include paying court costs, performing community service, and completing an online education program. Upon participants' successful completion of the program requirements, the charges against them are dismissed before arraignment. The Young Adult Diversion Program has two part-time employees. The Young Adult Diversion Program is discretionary, is not required or governed by statute, and does not receive separate funding. WCDA chooses to operate this program using the monies the Legislature appropriates each year to fund WCDA's overall operations. WCDA estimates the annual cost of the program at \$73,050.

WCDA also operates a Victim/Witness Assistance Program, which is governed by Chapter 258B of the General Laws. According to WCDA's website,

*The primary goals of the Victim/Witness Assistance Program are to reduce the level of secondary injury associated with the aftermath of crime and to aid in the prosecution of criminal cases by*

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1. Section 13 of Chapter 12 of the Massachusetts General Laws, which established WCDA, refers to Worcester County, minus the Town of Athol, as the "Middle District."

*ensuring that crime victims and witnesses are provided with the entitlements and services mandated by the Massachusetts Victim Bill of Rights.*

See the appendix to this report for detailed descriptions of these entitlements and services. As of January 15, 2017, the Victim/Witness Assistance Program had 21 full-time advocates, a director, and a deputy director.

Finally, WCDA operates a Drug Forfeiture Community Reinvestment Program. This program, governed by Section 47 of Chapter 94C of the General Laws, allocates the proceeds of drug-crime seizures to youth-focused community programs in Worcester County through a grant application process. Through this program, money that has been used in criminal activity is used for education and crime prevention. During the audit period, WCDA expended \$504,475 on 121 community programs through the Drug Forfeiture Community Reinvestment Program.

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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 (OSA) has conducted a performance audit of certain activities of the Worcester County District Attorney's Office—Middle District (WCDA) for the period July 1, 2014 through December 31, 2016. When reviewing the Young Adult Diversion Program, we extended our audit period to begin June 1, 2013. When reviewing the Victim/Witness Assistance Program, we extended our audit period to include the period October 4, 2013 through March 30, 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 WCDA administer and evaluate its Young Adult Diversion Program to ensure that it meets all of its goals?	No; see Findings <b>1a</b> , <b>1b</b> , and <b>1c</b>
2. Does WCDA's Victim/Witness Assistance Program provide assistance throughout the court process to victims and witnesses of domestic violence, murder, and attempted murder as required by Section 5 of Chapter 258B of the General Laws?	Yes
3. Does WCDA expend drug-forfeiture funds on its Drug Forfeiture Community Reinvestment Program in accordance with the purpose of the program as required by Chapter 257B of the General Laws?	Yes

To achieve our objectives, we gained an understanding of WCDA's internal control environment related to our audit objectives by reviewing applicable laws, regulations, and agency policies and procedures, as well as conducting inquiries with WCDA's staff and management. We also evaluated the design and tested the effectiveness of controls over WCDA's Drug Forfeiture Community Reinvestment Program.

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Additionally, we performed the following procedures:

- For the period June 1, 2013 through December 31, 2016, we reviewed a nonstatistical, random sample of 50 out of 402 participants in the Young Adult Diversion Program to determine whether they met stated eligibility guidelines and whether they successfully completed all program requirements: paying \$100 for court costs, completing an online education program, and performing eight hours of community service. We also reviewed the sample of 50 participants to determine whether they had committed crimes after successfully completing the program.
- We reviewed a nonstatistical, random sample of 60 of 11,498 cases tried during the audit period involving charges of domestic violence, murder, and attempted murder to ensure that WCDA offered victims and witnesses of crimes the rights and services governed by Section 5 of Chapter 258B of the General Laws.
- We reviewed a nonstatistical, random sample of 50 of 254 expenditures made from drug-forfeiture funds during the audit period to determine whether the expenditures were made in accordance with WCDA's Programmatic Policies for requesting, documenting, and approving the expenditure of funds.

We obtained criminal case data from the District Attorney Management Information Office Network system, which is the case-management system WCDA uses. Accordingly, we reviewed the controls WCDA had implemented regarding access to this system, as well as user roles and responsibilities. We traced a sample of cases to hardcopy court records for agreement. In addition, we obtained court records from the Trial Court's automated case-management system (MassCourts) to identify payments and criminal records for Young Adult Diversion Program participants. We traced source documents to MassCourts records for agreement. We determined that the data were sufficiently reliable for audit testing.

We used WCDA's QuickBooks-based accounting system to obtain financial data related to expenditures of forfeited funds made as part of the Drug Forfeiture Community Reinvestment Program during the audit period. To determine the reliability of the data, we traced source documents to data produced with QuickBooks and analyzed the access rights of authorized users of the system. Based on our audit work, we determined that the data were sufficiently reliable for our purposes.

Based on a prior assessment of the Massachusetts Management Accounting and Reporting System (MMARS) performed by OSA and our current comparison of source documentation with MMARS

information, we determined that the data obtained from MMARS for our audit were sufficiently reliable for the purposes of our audit work.<sup>2</sup>

Whenever sampling was used, we applied a nonstatistical approach, and as a result, we were not able to project our results to the entire population.

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2. In 2014, OSA 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, jobs, and infrastructure.

## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### **1. The Worcester County District Attorney's Office—Middle District's administration of its Young Adult Diversion Program could be improved through adoption of new performance metrics.**

The Worcester County District Attorney's Office—Middle District (WCDA) Young Adult Diversion Program was initiated with the primary goal of helping youths with minor offenses avoid getting a criminal record. The underlying philosophy is that a youthful criminal record can have negative impacts on educational, employment, and societal development throughout life, and that certain youthful transgressions can be effectively redressed through education and service opportunities. While WCDA has created a program to accomplish this goal, we identified several ways in which its administration of this program could be strengthened. Specifically, WCDA has not set up a process to identify, collect, and evaluate relevant program data; does not ensure that all the work done by participants is adequately documented; and does not ensure that all participants complete the required education program. As a result, WCDA's ability to measure the results of the program and determine whether any changes to the program are necessary is limited.

#### **a. WCDA should consider establishing a process to assess the effectiveness of the Young Adult Diversion Program in reducing recidivism.**

WCDA could improve its program by establishing a process to identify, collect, and evaluate relevant Young Adult Diversion Program data, such as whether participants have reoffended after successfully completing the program.

To determine the extent to which this program reduces recidivism for participants, we tested 50 of 402 participants enrolled in the program during the period June 1, 2013 through December 31, 2016 and determined that 46 of the 50 successfully completed the Young Adult Diversion Program. We reviewed court records for those 46 participants and determined that 9 (19.6%) committed further crimes<sup>3</sup> after successfully completing the program. The crimes were committed between 68 and 890 days after program completion. If WCDA had collected and evaluated this information, it could have assessed the program's effect on recidivism and considered potential improvements to the program.

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3. Of the 9 crimes committed, 8 were nonviolent offenses.

### **Authoritative Guidance**

The Urban Institute, a 50-year-old nonprofit organization that researches social and economic policy, has issued a report titled *Improving Recidivism as a Performance Measure*. The report states,

*Ongoing data collection and analysis is necessary for any performance measure. Without year-to-year data, policymakers are unable to draw conclusions about the effectiveness of government agencies or the programs they implement.*

Although WCDA is not required to follow this guidance, it can be considered a best practice.

### **Reasons for Noncompliance**

WCDA personnel told us that the Young Adult Diversion Program does not have the resources to collect and analyze program data that could provide information about the program's effectiveness, such as participants' recidivism rate, because of staffing issues. The program has only two employees (two part-time diversion officers).

#### **b. The Young Adult Diversion Program's files did not have documentation that all participants completed all program requirements.**

WCDA did not have supporting documentation that all program participants completed certain conditions of its Young Adult Diversion Program, specifically the online education program and the community service. Without obtaining and retaining this documentation, WCDA cannot be certain that participants successfully met all of the program's requirements before their charges were dismissed.

We reviewed the records of 50 out of 402 participants for the period June 1, 2013 through December 31, 2016. Of the 50 participants, 46 completed the program, and 13 of those completed the required online education program; however only 8 of these 13 participants had completion certificates for the program in their files. In addition, 36 of the 46 participants' files did not include documentation that the required community service hours were performed.

### **Authoritative Guidance**

The Office of the State Comptroller has issued an Internal Control Guide for all state agencies to use when developing their internal control systems. In emphasizing the importance of proper

documentation, this guide points to the US Government Accountability Office's document *Standards for Internal Control in the Federal Government*, which states,

*Documentation . . . provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties.*

Proper administration of this program would require WCDA to maintain all the documentation necessary to substantiate that all participants are held to the same standard and have successfully completed all program components before they are eligible to have their cases dismissed.

### **Reasons for Issue**

WCDA officials stated that the diversion officers talk to the field supervisors of the community service program to ensure that participants complete the required community service. They did not explain why some files lacked documentation for the online education program.

Additionally, the section of WCDA's Programmatic Policies that applies to the Young Adult Diversion Program states that WCDA staff members will ensure that participants comply with program requirements, but does not state specific procedures for performing or documenting this.

### **c. WCDA did not require most Young Adult Diversion Program participants to complete online education programs.**

Of the 46 records we reviewed of Young Adult Diversion Program participants who completed the program, 32 (70%) indicated that the participants were allowed to perform four more hours of community service (in addition to the eight hours required by the program) instead of a required online education program. Such education programs provide important information to participants, including information on the legal repercussions and other negative consequences of their crimes, as well as behavior-change strategies. Without requiring participants to complete an online education program, WCDA cannot be certain that participants receive all the information they need to change their behavior and possibly reduce recidivism.

### **Authoritative Guidance**

WCDA's Young Adult Diversion Program policy states, "The [participant] must successfully complete an online education program."

## Reasons for Noncompliance

WCDA officials stated that the online education programs were not offered for every type of crime committed by participants. During the audit period, WCDA required participants to complete the alcohol intervention program if their offense was alcohol-related and a shoplifting educational program if their offense was shoplifting or petty theft. If a participant committed a different type of crime, s/he was not required to complete either of these programs because they did not address the participant's crime. WCDA did not offer education programs for other common types of criminal offenses of program participants, such as disorderly conduct, vandalism, or criminal trespass.

Additionally, some participants who should have been required to complete an online education program did not have access to a computer, and one could not speak English (the only language offered by the software vendor for WCDA's online education programs).

## Recommendations

1. WCDA should identify the relevant data that could be used to assess the effectiveness of its Young Adult Diversion Program, establish a formal process to collect and evaluate this information, and use it to make any necessary program enhancements. If WCDA believes it needs more resources to perform these functions, including additional personnel, it should try to identify existing resources that could be allocated to these activities and/or request additional funding from the Legislature for this purpose.
2. WCDA should amend its Programmatic Policies to require written documentation to substantiate the completion of the Young Adult Diversion Program.
3. WCDA should maintain all such documentation in each participant's file. Specifically, it should obtain certificates of completion for online programs and have authorized community service personnel complete and sign a document stating that the participant has completed community service.
4. WCDA should expand its current online education programs to include all types of criminal offenses in the Young Adult Diversion Program. For criminal offenses covered by the Young Adult Diversion Program that have no online education programs, WCDA should offer an in-person program.
5. WCDA should remove barriers to accessing online education programs by determining whether a different vendor offers similar programs in different languages and suggesting alternatives (such as public libraries) to individuals who state that they do not have access to a computer.

## Auditee Response

*I am pleased to report that we have already implemented two of the three recommendations regarding the diversion program. Although court dockets previously served as our primary documentation for successful program participation, we are now including similar documentation*

*in our office files. The online education program has also been adjusted to accommodate the varying needs of participants.*

*There is one recommendation that gives me pause, however, and I believe merits further consideration. Specifically, I have several concerns regarding your recommendation to collect data in connection with the Young Adult Diversion Program.*

*First, the District Attorney's Office does not collect data unless specifically mandated by statute, regulation, or requirements of financial grants. As your report indicated, this office does not have the resources to embark on data collection, and I would add that we do not have the authority to collect data on individuals in this circumstance.*

*Second, the report's focus on recidivism may be misleading. The stated purpose of the diversion program is to "allow the first time offenders a chance to avoid having a criminal record." While reducing recidivism is certainly a laudable goal, I would not want to mislead you, the Legislature, or the public into believing that the program is aimed at such a goal. The legislature's recent criminal justice reform efforts include decriminalizing many non-violent misdemeanors and appears to also support the same goal of our diversion program to reduce the number of youths burdened with a criminal record. Given the limited and strict eligibility requirements for participation in the diversion program, the risk of recidivism is necessarily on the low end so I am not sure that data collection would be helpful.*

*Third, the data collection recommended by your report would not give much insight into recidivism. Statistics compiled would say very little unless they could be compared against data collected from individuals similarly situated who do not participate in the diversion program. So, again, I fear that we may mislead people by suggesting that the program reduces recidivism when, in fact, the raw data would not shed any light on that issue.*

*Finally, the recommendation is somewhat at odds with the premise of the diversion program. The program is designed to help young adults avoid the stigma of a criminal record for minor offenses. As your audit indicates, the vast majority of participants complete the program successfully without further interaction with law enforcement. Secretly monitoring these participants for the purpose of data collection strikes me as a bit of a betrayal of the promise of the program. We want people to successfully complete the program and move on without any strings attached.*

## **Auditor's Reply**

We believe that the actions taken by WCDA, as stated in its response, to address our concerns about the documentation of participation in the Young Adult Diversion Program and the related online educational programs were responsive to our concerns and should allow it to administer this program more effectively.

While we recognize that WCDA has limited resources, the collection and evaluation of data in the Young Adult Diversion Program, in our opinion, will aid in the proper administration of this program. For

example, collecting information on why some participants did not participate and/or could not complete the program could allow WCDA to identify any potential barriers to successful program completion and address them accordingly. While WCDA may not have the authority to collect some data, we believe that at least some of the information that it would need to collect to effectively monitor and assess the impact of its Young Adult Diversion Program is accessible to WCDA, since the Office of the State Auditor was able to obtain this information.

Most publicly available information on diversion programs on both a state and a national level indicates that one of the primary goals of this type of program is to reduce recidivism.<sup>4</sup> Although we understand that there are limitations on how the recidivism rate in this population should be interpreted, we believe that WCDA should consider aligning itself with national standards and view a reduction in the recidivism rate for program participants as a primary goal of the program. Although the rate at which participants reoffend is only one metric, it does provide some understanding of the impact the program has on participants.

Finally, although WCDA believes that collecting and using program data would be at odds with the premise of the Young Adult Diversion Program, we believe this information could be used also to provide a level of transparency to program participants, the Legislature, and the public regarding the program's effectiveness. Program information could be collected, retained, used, and disseminated in a secure manner that would protect the privacy of participants but also be useful in program administration.

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4. For instance, Nebraska's Juvenile Pretrial Diversion Guidelines list reducing recidivism as a purpose of juvenile pretrial diversion. In Louisiana, the office of the Caddo Parish District Attorney states that the results of its diversion program include reducing recidivism. Finally, a 2010 research summary by the US Department of Justice on pretrial diversion programs states that these programs have the goal of reducing recidivism by addressing the causes of criminal activity.

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## APPENDIX

### Section 3 of Chapter 258B of the Massachusetts General Laws: Rights Afforded Victims, Witnesses or Family Members

*To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family members of the victim, shall be afforded the following basic and fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:*

- (a) for victims, to be informed by the prosecutor about the victim's rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim's role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;*
- (b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person's testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony;*
- (c) for victims and witnesses, to be notified by the prosecutor, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled, provided that such changes are known in advance. In order to notify victims and witnesses, a form shall be provided to them by the prosecutor for the purpose of maintaining a current telephone number and address. The victim or witness shall thereafter maintain with the prosecutor a current telephone number and address;*
- (d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;*
- (e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services;*
- (f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;*
- (g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions by the defense to obtain psychiatric or other confidential records, and before the filing of a nolle prosequi or other act by the commonwealth terminating the prosecution or before the submission of the commonwealth's proposed sentence recommendation to the court. The prosecutor shall inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation. The right of the*

*victim to confer with the prosecutor does not include the authority to direct the prosecution of the case;*

- (h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court's approval of such request, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court, except among themselves, the residential address, telephone number, or place of employment or school of the victim, a victim's family member, or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses;*
- (i) for victims, family members and witnesses to be provided, by the court as provided in section 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant's family, friends, attorneys or witnesses and separate from the district attorney's office; provided, however, that the court shall designate a waiting area at each courthouse; and provided further, that designation of those areas shall be made in accordance with the implementation plan developed by the task force.*
- (j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;*
- (k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;*
- (l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who notifies his employer of his subpoena to appear as a witness prior to his attendance, shall not on account of his absence from employment by reason of such witness service be subject to discharge or penalty by his employer. Any employer or agent of said employer who discharges or disciplines or continues to threaten to discharge or discipline a victim or witness because that victim or witness is subpoenaed to attend court for the purpose of giving testimony may be subject to the sanctions stated in section fourteen A of chapter two hundred and sixty-eight;*
- (m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant's behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the interview;*
- (n) for victims, to confer with the probation officer prior to the filing of the full presentence report. If the victim is not available or declines to confer, the probation officer shall record that information in the report. If the probation officer is not able to confer with the victim or the victim declines to confer, the probation officer shall note in the full presentence report the reason why the probation officer did not make contact with the victim;*

- (o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant's payments. If the offender seeks to modify the restitution order, the offender's supervising probation officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.*
- (p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine, and to be heard at any other time deemed appropriate by the court. The victim also has a right to submit the victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime;*
- (q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;*
- (r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;*
- (s) for victims, to be informed by the parole board of information regarding the defendant's parole eligibility and status in the criminal justice system;*
- (t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, and whenever the defendant escapes from custody. The victim shall be informed by the prosecutor about notification rights and the certification process required to access the criminal offender record information files. Persons requesting such notice must provide the appropriate authority with current information as to their address and telephone number;*
- (u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.*
- (v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph, that is not of itself of an inflammatory nature, of the deceased victim that is not larger than eight by ten inches; provided, however, that at no time may the photograph be exposed or in any way displayed in the presence of any member of the jury, or the jury pool from which a jury is to be selected*

*in a particular matter; provided, further, that nothing in this section shall preclude the admission into evidence of a photograph that the court deems relevant and material.*

*(w) Where the victim or witness is an employee of the department of youth services, no law enforcement agency, prosecutor, defense counsel or parole, probation or corrections official shall disclose or state the residential address, telephone number or place of employment or school of the victim, a victim's family member or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses.*

*There shall be conspicuously posted in all courthouses and police stations a summary of the rights afforded under this section. The victim and witness assistance board, pursuant to section 4, shall devise and provide posters to satisfy this requirement to court officials and police station personnel, and, upon request and at the discretion of the office and board, to any other institution or organization to post and maintain in space accessible to the general public. The board shall develop such posters in a variety of languages as determined by the Massachusetts office for victim assistance. Upon request, the board will respond, to the extent possible, to any requests for additional language translations of such posters.*