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Overview of State Funding and Audit of CDAA

PRESENTED TO: Assembly Budget Subcommittee No 5.
On Public Safety
Hon. Cristina Garcia, Chair



LEGISLATIVE ANALYST'S OFFICE

Overview

- The California District Attorneys Association (CDAА) is a not-for-profit membership organization that consists of individuals who work in the criminal prosecution field, such as district and city attorneys and victim-witness supervisors. CDAА is governed by a 17-person Board of Directors.
- CDAА engages in various activities—most notably legislative advocacy and statewide training in a range of topic areas, such as the prosecution of environmental violations and asset forfeiture cases.
- CDAА receives funding from various sources—such as membership dues, state and federal government funds, and litigation proceeds—to support its activities. Some of these funds are “restricted,” or required to be used for specific purposes.
- This handout provides information on state funding provided to CDAА and a summary of a December 2020 audit of certain CDAА programs and the restricted funds that support them.



State Funding Provided to CDAA in Recent Years

- ***Environmental Enforcement Training Program.*** Subject to availability, state law designates at least 25 percent of funds deposited into the state Environmental Enforcement and Training Account (EETA) specifically for CDAA to develop and implement statewide training on the enforcement of state and local environmental laws for prosecutors, prosecutor investigators, fire departments, and environmental regulators. This training must cover the requirements of environmental laws, teach prosecution and investigative techniques, and provide enforcement training materials. CDAA last received around \$48,000 from EETA for these activities in 2018-19.
- ***Environmental Circuit Prosecutor Project.*** State law created this joint project between the California Environmental Protection Agency and CDAA. The project is intended to support the effective and uniform enforcement of environmental laws and regulations, such as by assisting district attorneys (particularly in rural counties) in criminal prosecutions and providing on the job training to prosecutors, peace officers, and environmental regulators. Subject to availability, state law designates at least 25 percent of EETA monies specifically for CDAA's costs for the project. CDAA last received around \$63,000 from EETA for the project in 2018-19.
- ***Asset Forfeiture Training.*** Asset forfeiture refers to the seizure of cash or other items suspected of being tied to crime and the transfer of these items to government ownership. State law requires state and local drug-related asset forfeitures be distributed in a specific manner. This includes an allocation of 1 percent of proceeds (after certain deductions are made) to a private nonprofit organization composed of local prosecutors—traditionally CDAA—for statewide asset forfeiture training of prosecutors and law enforcement. In 2018 (the most recent data readily available), CDAA was allocated around \$300,000 from asset forfeiture.



State Funding Provided to CDAA in Recent Years

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- **High Technology Theft Apprehension and Prosecution Program.** State law created this program to improve the capacity of local prosecutors and law enforcement to investigate and prosecute high technology-related crimes. State law allocates 2011 realignment funds to Marin County annually for use by CDAA for statewide training and research on deterring, investigating, and prosecuting such crimes. We estimate that CDAA receives about \$192,000 annually for these activities.
- **State Grant Programs.** CDAA has received grant funding from various state agencies over time (including federal funds received by the state). Such funding can fluctuate from year to year depending on whether CDAA seeks and receives grant awards. Examples of major recent grants are:
 - **Medical Training Center Program.** State law requires the training of qualified health care professionals, investigators, and court personnel on how to perform and use abuse and sexual assault medical evidentiary examinations. CDAA was awarded nearly \$1.2 million in federal funds to deliver this training from October 2020 through September 2021.
 - **Legal Training Program.** State law requires the development and provision of training for district attorneys in the investigation and prosecution of sexual assault and abuse cases. CDAA was awarded nearly \$1.2 million in federal and state funds to provide this training from July 2020 through June 2021.
 - **Prosecution of Physical and Sexual Abuse of Children Training Program.** This program supports specialized statewide trainings for local prosecutors on pursuing physical and sexual child abuse cases. CDAA was awarded \$65,000 in federal funds to provide this training from March 2019 through February 2020. (We note CDAA declined the award for March 2020 through February 2021.)
 - **Victim Service Training Program.** This program provides training on working with specific victim populations, with the focus of each year changing. CDAA was awarded \$400,000 in federal funds to provide training for January 2018 through December 2019.



State Funding Provided to CDAA in Recent Years

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- **Settlements and Judgments.** CDAA has received monies pursuant to settlements or judgments in cases filed and resolved by the state. For example, CDAA received around \$107,000 related to consumer protection cases resolved by the Department of Justice (DOJ). These amounts can fluctuate from year to year.
- **Other State Funds.** State agencies provide payments from various fund sources to CDAA for various purposes—such as for attorney membership dues, training fees, publications, or other materials—which can vary from year to year. For example, CDAA received nearly \$42,000 in such payments from DOJ in 2019-20.



Summary of December 2020 External Audit of CDAA

CDAA Initiated Audit

- In light of concerns raised internally about whether certain monies received by CDAA were being used consistent with their restricted uses, CDAA retained an external auditor in August 2020 to conduct a line-item audit of settlement, judgment, and grant monies provided for roughly six environmental- and worker safety-related CDAA programs since 2002.

Audit Findings

- **Practice of Borrowing Restricted Funds.** CDAA routinely borrowed restricted funds from the programs and treated these funds as unrestricted. This practice has been instrumental to CDAA's financial viability since 2004. (We note the audit found that state funds provided from the EETA were spent consistent with the restrictions on their use.)
- **Nearly \$3 Million Owed.** As of June 2020, \$2.9 million was still owed to CDAA's environmental and worker safety programs from its unrestricted general purpose account. CDAA does not currently have sufficient resources to repay this amount.
- **Concerns With Internal Accounting Practices.**
 - Around \$725,000 in received monies were misallocated between the audited programs.
 - CDAA's audited financial statements for each fiscal year since 2005 have inaccurately reported the majority of revenues and net assets as unrestricted.
 - Internal financial reports lacked information on whether program funds were restricted. Such reports also lacked other information needed to assess each program's overall fiscal condition.
 - Internal accounting practices—specifically how revenues and transfers were documented—changed around fiscal year 2016. This resulted in certain financial reports being internally inconsistent.



Summary of December 2020 External Audit of CDAA

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Actions Adopted By CDAA Board in June 2020 Before Audit Began

- CDAA's Board of Directors took action to improve its financial practices in June 2020—prior to the start of the audit. The auditor agreed that these actions were appropriate. Specifically, CDAA took action to:
 - **Deposit Future Funds in Restricted Accounts.** All future monies received by CDAA environmental and worker safety programs will be deposited into separate restricted financial accounts independent of its unrestricted general purpose account.
 - **Increase Internal Oversight.** Copies of bank statements associated with these new accounts will be provided to the Co-Chairs of CDAA's Environmental Committee.
 - **Provide General Fund Support for Environmental Programs.** Fiscal support for CDAA environmental programs will be provided from its unrestricted general purpose account when alternative funding sources are not available.
 - **Repay Borrowed Monies.** At least 10 percent of unencumbered, unrestricted general purpose account monies will be set aside at the end of each fiscal year in order to restore the fund balances of CDAA's environmental and worker safety programs.



Summary of December 2020 External Audit of CDAA

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Audit Recommendations for CDAA

- Take proactive steps to review funding restrictions—such as seeking clarification on the intended use of received monies, presuming judgment monies are restricted, and appropriately documenting any restrictions—in order to eliminate any ambiguities on whether received funds are restricted.
- Improve external reporting by informing those entities who provided monies related to judgments on how those monies were used for all CDAA programs.
- Increase internal reporting to leadership and oversight bodies (such as the Board of Directors), including additional information related to restrictions on the use of received monies.
- Improve accounting practices in specific ways in order to ensure financial reports are internally consistent.
- Improve internal communication by providing copies of any judgments tied to monies for CDAA to its accounting department and document such monies in certain ways to track whether they have actually been received.

